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*Committee on Economic and Monetary Affairs*

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**2011/0204(COD)**

1.3.2012

## **OPINION**

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters  
(COM(2011)0445 – C7-0211/2011 – 2011/0204(COD))

Rapporteur: Elena Băsescu

PA\_Legam

## SHORT JUSTIFICATION

The rapporteur takes the view that more effective cross-border debt recovery will boost competitiveness on the single market. The complexity of these arrangements is having an adverse economic impact, primarily on undertakings trading or supplying services in other Member States. A central premise for a level playing field within the single market has to be functional and affordable access to cross-border debt recovery procedures. Since clarity is of the essence in defining cross-border implications, the rapporteur is seeking to define what they are rather than what they are not.

European account preservation proceedings are an alternative to internal legal proceedings designed to achieve similar ends. While the issuing of account preservation orders without notifying debtors undoubtedly ensures that they can be effectively enforced, it is at the same time necessary to strike the correct balance between the rights of creditors to recover amounts outstanding and adequate protection for debtors. The rapporteur acknowledges the need to require creditors to provide security, the amount to be set by the relevant court, and to clarify concepts such as the merits of claims. At the same time legal proceedings should, as a matter of principle, be expedited by establishing short and specific deadlines for the issuing and enforcement of account preservation orders.

The rapporteur is of the opinion that asset disclosure should be limited to the amounts necessary to meet the actual claims, while amounts necessary to cover debtors' basic living costs should be exempted from account preservation proceedings. At the same, it is necessary to cover banking costs arising from the implementation of preservation orders while ensuring that settlements accurately reflect the real costs to banks of providing these services, thereby respecting the principles of proportionality and impartiality.

## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation Recital 15

##### *Text proposed by the Commission*

(15) This Regulation should provide sufficient safeguards against abuse of the order. In particular, unless the creditor already has a judgment enforceable in the Member State of enforcement, the court should ***be able to*** require the creditor to

##### *Amendment*

(15) This Regulation should provide sufficient safeguards against abuse of the order. In particular, unless the creditor already has a judgment enforceable in the Member State of enforcement, the court should require the creditor to provide

provide security to ensure compensation for any damage suffered by the debtor as a result of an unjustified order. The conditions under which the creditor will be liable to compensate the debtor for such damage should be governed by national law. ***Where the law of a Member State does not provide for a statutory liability of the claimant, this Regulation should not preclude the recourse to measures with equivalent effect, such as the obligation on the claimant to give an undertaking as to damages.***

security to ensure compensation for any damage suffered by the debtor as a result of an unjustified order, ***the amount of such security being set by the relevant court and being dependent on the amount of the debt.*** The ***detailed*** conditions under which the creditor will be liable to compensate the debtor for such damage should be governed by national law ***but Member States should ensure that provisions are in place to compensate victims of an abuse of the order.***

### *Justification*

*Given the insufficiently stringent conditions for the issuing of account preservation orders, it is necessary to require creditors to provide security, the amount to be determined by the relevant court.*

## **Amendment 2**

### **Proposal for a regulation Recital 17**

#### *Text proposed by the Commission*

(17) In order to ensure a swift enforcement of the account preservation order, *the* Regulation should provide that the transmission of the order from the issuing court to the bank is effected by means of direct service as set out in Regulation (EC) No 1393/2007 on the service of judicial and extrajudicial documents in the Member States. This Regulation should also provide appropriate rules for the implementation of the order by the bank and oblige the bank to declare whether the order has successfully caught any funds of the debtor.

#### *Amendment*

(17) In ***the event that a claimant has already obtained a judgment or other enforceable title on the substance, and*** *in* order to ensure a swift enforcement of the account preservation order, *this* Regulation should provide that the transmission of the order from the issuing court to the bank is effected by means of direct service as set out in Regulation (EC) No 1393/2007 on the service of judicial and extrajudicial documents in the Member States. This Regulation should also provide appropriate rules for the implementation of the order by the bank and oblige the bank to declare whether the order has successfully caught any funds of the debtor.

### *Justification*

*In line with the Commission proposal there should be no exequatur requirements where a substantive judgment has already awarded a sum to the creditor, as the account preservation order is only giving effect to someone seeking possession of their lawful property.*

### **Amendment 3**

#### **Proposal for a regulation Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17a) In the event that a claimant has not yet obtained a judgment or other enforceable title on the substance, the account preservation order may be made the subject of minimal proportionate proceedings by the courts in the Member States where the accounts are held. Such court proceedings must be limited to that which is necessary in order to ensure adequate protection of the debtor. The debtor must not be informed of such proceedings prior to the order being implemented.***

### *Justification*

*In order to enable Member States to guarantee the protection of their citizens from malicious misuse of the account preservation order exequatur procedures, they should be able to apply exequatur requirements to the application of an order in their Member State. Such proceedings should not be able to second guess the decision of the originating court regarding the merits of the claimants case for an order, but should be able to decide if sufficient protections are in place.*

### **Amendment 4**

#### **Proposal for a regulation Recital 18**

*Text proposed by the Commission*

*Amendment*

(18) The debtor's right to a fair trial should be safeguarded in the proceedings for the account preservation order. This notably requires that the order and all documents

(18) The debtor's right to a fair trial should be safeguarded in the proceedings for the account preservation order. This notably requires that the order and all documents

submitted by the claimant be served on the defendant promptly after its implementation and that the defendant can apply for a review of the order. Jurisdiction for the review should lie with the court having issued the order except if aspects of enforcement are contested. However, *if* the defendant ***is a consumer, employee or insured, he*** should be able to apply for a review of the order before the courts in ***the*** Member State ***of his domicile***. The debtor should also have the right to release the funds in the account ***is*** he provides alternative security.

submitted by the claimant be served on the defendant promptly after its implementation and that the defendant can apply for a review of the order. Jurisdiction for the review ***of the order itself*** should lie with the court having issued the order except if aspects of enforcement are contested. However, the defendant should be able to apply for a review of the order before the courts in ***a*** Member State ***where he holds accounts as regards enforcement of the order in that Member State***. The debtor should also have the right to release the funds in the account ***if*** he provides alternative security.

#### *Justification*

*To challenge an account preservation order as it applies across the EU the debtor should have to seek a review from the court which issued the order, but to ensure protection of individuals, who may live and hold accounts in more than one Member State, they should be able to challenge the implementation of an order in the courts of any Member State where they hold accounts as regards the orders implementation in that Member State.*

## **Amendment 5**

### **Proposal for a regulation Article 2 – paragraph 1**

#### *Text proposed by the Commission*

1. This Regulation shall apply to ***pecuniary*** claims in civil and commercial matters having cross-border implications as defined in Article 3 whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

#### *Amendment*

1. This Regulation shall apply to claims in civil and commercial matters having cross-border implications as defined in Article 3 whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

#### *Justification*

*Under Article 4(7), ‘claim’ is already defined as meaning an existing claim for payment of a specific or determinable sum of money.*

## Amendment 6

### Proposal for a regulation Article 2 – paragraph 3

*Text proposed by the Commission*

3. This Regulation shall not apply to bank accounts which, under the law governing immunity from enforcement of the Member State where the account is located, are exempt from seizure or to systems for the settlement of securities designated by Member States in accordance with Article 10 of Directive 98/26/EC of the European Parliament and of the Council.

*Amendment*

3. This Regulation shall not apply to bank accounts which, under the law governing immunity from enforcement of the Member State where the account is located, are exempt from seizure or to ***accounts opened for the setting-up of payment systems and*** systems for the settlement of securities designated by Member States in accordance with Article 10 of Directive 98/26/EC of the European Parliament and of the Council.

*Justification*

*Exemptions from the scope of the regulation should apply to all accounts opened for the purpose of setting up the systems referred to in Directive 98/26/EC (financial settlement instruments and payment systems) and not only securities settlement systems.*

## Amendment 7

### Proposal for a regulation Article 3

*Text proposed by the Commission*

For the purposes of this Regulation, a matter ***is considered to have*** cross-border implications ***unless*** the court seized with the application for an EAPO, ***all*** bank accounts to be preserved by the order ***and*** the parties are ***located or*** domiciled in the same Member State.

*Amendment*

For the purposes of this Regulation a matter ***has*** cross-border implications ***if any of the following:***

- the court seized with the application for an EAPO,
  - ***any of the*** bank accounts to be preserved by the order, ***or***
  - ***any of*** the parties
- are ***not*** domiciled in the same Member

State.

*Justification*

*For the sake of greater clarity, it is necessary to define cross-border implications in terms of what they are rather than what they are not (see for example the definitions contained in Regulation (EC) No 1896/2006 creating a European order for payment procedure or Regulation (EC) No 861/2007 establishing a European Small Claims Procedure).*

**Amendment 8**

**Proposal for a regulation**

**Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The date to be taken as the basis for determining whether a case has a cross-border dimension shall be that on which the account preservation claim form is filed with the relevant court.***

*Justification*

*It is necessary to specify the date on which the elements determining the cross-border dimension of a case are assessed (see for example Regulation (EC) No 1896/2006 on the European order for payment procedure or Regulation (EC) No 861/2007 establishing a European Small Claims Procedure).*

**Amendment 9**

**Proposal for a regulation**

**Article 4 – point 2**

*Text proposed by the Commission*

*Amendment*

2. ‘bank’ means ***an undertaking*** the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own account;

2. ‘bank’ means ***a credit institution*** the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own account;

*Justification*

*The term ‘credit institution’ should be used in defining banks, as established under Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions.*



## Amendment 10

### Proposal for a regulation

#### Article 4 – point 11 – point a

*Text proposed by the Commission*

(a) relates to the signature and **the** content of the instrument, and

*Amendment*

(a) relates to the signature and content of the instrument, **determination of the identity of the parties and endorsement by the latter of the content and date of the instrument**, and

*Justification*

*The authenticity of a document is established with reference to determination of the identity of the parties and their endorsement of the content and date of the document in question.*

## Amendment 11

### Proposal for a regulation

#### Article 5 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the **claimant** applies for an EAPO prior to the initiation of judicial proceedings on the substance of the matter against the **defendant** or at any stage during such proceedings;

*Amendment*

(a) the **creditor** applies for an EAPO prior to the initiation of judicial proceedings on the substance of the matter against the **debtor** or at any stage during such proceedings;

*Justification*

*Prior to the commencement of legal proceedings it is inappropriate to refer to claimants or defendants, more suitable terms being creditors or debtors.*

## Amendment 12

### Proposal for a regulation

#### Article 5 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the **claimant** has obtained a judgment, court settlement or authentic instrument against the **defendant** which is enforceable in the Member State of origin but has not

*Amendment*

(b) the **creditor** has obtained a judgment, court settlement or authentic instrument against the **debtor** which is enforceable in the Member State of origin but has not yet

yet been declared enforceable in the Member State of enforcement where such a declaration is required.

been declared enforceable in the Member State of enforcement where such a declaration is required.

*Justification*

*Prior to the commencement of legal proceedings it is inappropriate to refer to claimants or defendants, more suitable terms being creditors or debtors.*

**Amendment 13**

**Proposal for a regulation  
Article 5 – paragraph 2**

*Text proposed by the Commission*

2. Section 2 applies to situations where the **claimant** applies for an EAPO after having obtained a judgment, court settlement or authentic instrument against the **defendant** which is by operation of law enforceable in the Member State of enforcement or has been declared enforceable there.

*Amendment*

2. Section 2 applies to situations where the **creditor** applies for an EAPO after having obtained a judgment, court settlement or authentic instrument against the **debtor** which is by operation of law enforceable in the Member State of enforcement or has been declared enforceable there.

*Justification*

*Prior to the commencement of legal proceedings it is inappropriate to refer to claimants or defendants, more suitable terms being creditors or debtors.*

**Amendment 14**

**Proposal for a regulation  
Article 6 – paragraph 2**

*Text proposed by the Commission*

2. Jurisdiction for issuing the EAPO shall lie with the courts of the Member State where proceedings on the substance of the matter have to be brought in accordance with the applicable rules on jurisdiction. Where more than one court has jurisdiction for the substance of the matter, the court of the Member State where the claimant has brought proceedings on the substance **or intends to bring proceedings on the**

*Amendment*

2. Jurisdiction for issuing the EAPO shall lie with the courts of the Member State where proceedings on the substance of the matter have to be brought in accordance with the applicable rules on jurisdiction. Where more than one court has jurisdiction for the substance of the matter, the court of the Member State where the claimant has brought proceedings on the substance shall have jurisdiction.

*substance* shall have jurisdiction

*Justification*

*Deletion of the words ‘or intends to bring proceedings on the substance’ will minimise any ambiguity for the purpose of establishing the courts with which jurisdiction lies.*

**Amendment 15**

**Proposal for a regulation**

**Article 7 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) that the claim against the defendant *appears to be* well founded;

*Amendment*

(a) that the claim against the defendant *is* well founded;

*Justification*

*In order to establish the correct balance between the rights of defendants and claimants, claims against defendants must actually be well founded.*

**Amendment 16**

**Proposal for a regulation**

**Article 7 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The claim shall be considered well founded for the purposes of point (a) above where it is established that, inter alia:*

- the claim exists,*
- the claim is payable,*
- legal proceedings have been initiated on the merits of the claim.*

*Justification*

*In order to strike the correct balance between the rights of defendants and claimants, the text of the regulation should contain criteria for determining the merits of claims against debtors.*

## Amendment 17

### Proposal for a regulation Article 7 – paragraph 2

*Text proposed by the Commission*

2. Where the claimant has already obtained a judgment, court settlement or authentic instrument ***for the payment of a sum of money against the defendant which is*** enforceable in the Member State of origin and entitled to recognition in the Member State of enforcement under the applicable instruments of Union law, ***the condition set out in paragraph 1 (a) shall be deemed to be fulfilled.***

*Amendment*

***2. The condition set out in point (a) of the first subparagraph of paragraph 1 shall be deemed to be fulfilled*** where the claimant has already obtained a judgment, court settlement or authentic instrument enforceable in the Member State of origin and entitled to recognition in the Member State of enforcement under the applicable instruments of Union law ***under which it is established or where it is ascertained that the claim relates to a payment which is being sought through an application for an account preservation order.***

*Justification*

*It is necessary to reword the text to make it clearer and strike the correct balance between the rights of defendants and claimants.*

## Amendment 18

### Proposal for a regulation Article 12

*Text proposed by the Commission*

Before issuing an EAPO, the court ***may*** require the provision of a security deposit or an equivalent assurance by the claimant to ensure compensation for any damage suffered by the defendant ***to the extent the*** claimant ***is*** liable to compensate such damage ***under national law.***

*Amendment*

Before issuing an EAPO, the court ***shall*** require the provision of a security deposit or an equivalent assurance by the claimant to ensure compensation for any damage suffered by the defendant. ***The*** claimant ***shall be*** liable to compensate such damage ***should the court which issued the EAPO decide, upon review, that the claimant wrongfully applied for an EAPO.***

## Amendment 19

### Proposal for a regulation Article 13

#### *Text proposed by the Commission*

Where an application for an EAPO is made prior to the initiation of proceedings on the substance, the claimant shall initiate such proceedings within 30 days of the date of issue of the order or within any shorter time period set by the issuing court, failing which the order shall be revocable in accordance with point (b) of Article 34(1) or Article 35(2).

#### *Amendment*

Where an application for an EAPO is made prior to the initiation of proceedings on the substance, the claimant shall initiate such proceedings within 30 **calendar** days of the date of issue of the order or within any shorter time period set by the issuing court, failing which the order shall be revocable in accordance with point (b) of Article 34(1) or Article 35(2).

#### *Justification*

*It is necessary to specify 30 calendar days.*

## Amendment 20

### Proposal for a regulation Article 16 – point c – introductory wording

#### *Text proposed by the Commission*

(c) **either**

#### *Amendment*

(c) **any of the following:**

## Amendment 21

### Proposal for a regulation Article 17 – paragraph 5 – point a

#### *Text proposed by the Commission*

(a) the possibility to oblige all banks in their territory to **disclose** whether the defendant holds an account with them.

#### *Amendment*

(a) the possibility to oblige all banks in their territory to **inform the competent authorities** whether the defendant holds an account with them.

#### *Justification*

*It is necessary to specify that the competent authorities must be informed.*

## Amendment 22

### Proposal for a regulation

#### Article 21 – paragraph 7 – point b

##### *Text proposed by the Commission*

(b) where the claimant obtained a judgment, authentic instrument or court settlement on the substance which is enforceable in the Member State of origin or in cases referred to in Article 5(2), until the effect of the EAPO is replaced by an equivalent effect of an enforcement measure under national law, provided that in the former case the claimant has launched the enforcement proceedings within 30 days after the judgment, authentic instrument or court settlement has been notified or has become enforceable, whichever is the later.

##### *Amendment*

(b) where the claimant obtained a judgment, authentic instrument or court settlement on the substance which is enforceable in the Member State of origin or in cases referred to in Article 5(2), until the effect of the EAPO is replaced by an equivalent effect of an enforcement measure under national law, provided that in the former case the claimant has launched the enforcement proceedings within 30 **calendar** days after the judgment, authentic instrument or court settlement has been notified or has become enforceable, whichever is the later.

##### *Justification*

*It is necessary to specify 30 calendar days.*

## Amendment 23

### Proposal for a regulation

#### Article 22 – paragraph 2

##### *Text proposed by the Commission*

2. An appeal is to be lodged within 30 days of notification of the decision referred to in paragraph 1.

##### *Amendment*

2. An appeal is to be lodged within 30 **calendar** days of notification of the decision referred to in paragraph 1.

##### *Justification*

*It is necessary to specify 30 calendar days.*

## Amendment 24

### Proposal for a regulation

#### Article 23

*Text proposed by the Commission*

An EAPO issued in one Member State ***pursuant to Article 6(2)*** and Article 14(1) shall be recognised and enforceable in other Member States without the need for a declaration of enforceability and without any possibility of opposing its recognition.

*Amendment*

An EAPO issued in one Member State ***in circumstances as referred to in Article 5(2)*** and Article 14(1) shall be recognised and enforceable in other Member States without the need for a declaration of enforceability and without any possibility of opposing its recognition.

*Justification*

*It should be clear that exequatur is only abolished where the claimant has received a substantive judgement as set out in Article 5(2).*

**Amendment 25**

**Proposal for a regulation**  
**Article 25 – paragraph 1**

*Text proposed by the Commission*

***1. The defendant shall be served with the EAPO and all documents submitted to the court or competent authority with a view to obtaining the order without undue delay*** after service on the bank has been effected pursuant to Article 24 and the bank has issued the declaration pursuant to Article 27.

*Amendment*

***1. No more than one working day*** after service on the bank has been effected pursuant to Article 24 and the bank has issued the declaration pursuant to Article 27, ***the defendant shall be served with the EAPO and with all documents submitted to the court or competent authority with a view to obtaining the EAPO.***

*Justification*

*It is necessary to specify precisely the deadline within which the defendant must be served with the EAPO and all documents submitted to the court or competent authority with a view to obtaining the order.*

## Amendment 26

### Proposal for a regulation Article 26 – paragraph 3

#### *Text proposed by the Commission*

3. Where the funds in the account designated in the EAPO pursuant to paragraph 1 consist of financial instruments, their value shall be determined by reference to the relevant market rate applicable on the day of implementation.

#### *Amendment*

3. Where the funds in the account designated in the EAPO pursuant to paragraph 1 consist of financial instruments, their value shall be determined by reference to the relevant market rate applicable on the day of implementation. ***Where the funds in the account exceed the amounts specified in the EAPO, the bank shall determine the financial instruments to which the EAPO is to apply. In the event that the debtor disagrees with the bank's decision, the debtor may apply for a review of that decision by the relevant court of the Member State where the account is held.***

#### *Justification*

*Where the account contains different financial instruments it is necessary to specify which of them are affected.*

## Amendment 27

### Proposal for a regulation Article 26 – paragraph 4

#### *Text proposed by the Commission*

4. Where the currency of the funds held in the account is not the same as that in which the EAPO was issued, the bank shall convert the amount by reference to the official exchange rate of the day of implementation.

#### *Amendment*

4. Where the currency of the funds held in the account is not the same as that in which the EAPO was issued, the bank shall convert the amount by reference to the official exchange rate of the day of implementation ***in the Member State in which the account is located.***

#### *Justification*

*The official exchange rate used by the bank to convert the amount in question should be specified.*



## Amendment 28

### Proposal for a regulation Article 34 – title

*Text proposed by the Commission*

***Remedies*** of the defendant ***in the Member State of origin***

*Amendment*

***Right*** of the defendant ***to a review of the EAPO***

## Amendment 29

### Proposal for a regulation Article 34 – paragraph 2

*Text proposed by the Commission*

2. With the exception of a review pursuant to paragraph 1(b), the application for a review shall be made promptly, in any event within 45 days from the day the defendant was effectively acquainted with the contents of the order and was able to react.

*Amendment*

2. With the exception of a review pursuant to paragraph 1(b), the application for a review shall be made promptly, ***and*** in any event within 45 ***calendar*** days from the day the defendant was effectively acquainted with the contents of the order and was able to react ***thereto***.

*Justification*

*It is necessary to specify 45 calendar days.*

## Amendment 30

### Proposal for a regulation Article 34 – paragraph 3

*Text proposed by the Commission*

3. The application for a review shall be addressed to the court which issued the order. The application shall be submitted using the form set out in Annex IV and by any means of communication, including electronic.

*Amendment*

3. The application for a review ***of the EAPO as it applies across the Union*** shall be addressed to the court which issued the order. The application shall be submitted using the form set out in Annex IV and by any means of communication, including electronic.

### *Justification*

*To challenge an account preservation order as it applies across the EU the debtor should have to seek a review from the court which issued the order, but to ensure protection of individuals, who may live and hold accounts in more than one Member State, they should be able to challenge the implementation of an order in the courts of any Member State where they hold accounts as regards the order's implementation in that Member State.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 34 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Without prejudice to the rights of the defendant under Article 35, a defendant may also address an application for a review of the EAPO to a court in another Member State. Any decision by a court to set aside or modify the EAPO taken under this paragraph shall be applicable only in the Member State in which that court is located.***

### *Justification*

*To challenge an account preservation order as it applies across the EU the debtor should have to seek a review from the court which issued the order, but to ensure protection of individuals, who may live and hold accounts in more than one Member State, they should be able to challenge the implementation of an order in the courts of any Member State where they hold accounts as regards the order's implementation in that Member State.*

### **Amendment 32**

#### **Proposal for a regulation**

#### **Article 34 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The application shall be served on the claimant in accordance with the applicable rules on the service of documents.

4. The application shall be served on the claimant ***by the court*** in accordance with the applicable rules on the service of documents.

*Justification*

*It is necessary to specify that the application will be served by the court.*

**Amendment 33**

**Proposal for a regulation  
Article 34 – paragraph 7**

*Text proposed by the Commission*

7. The decision will be immediately served on the bank or banks concerned which shall immediately upon receipt implement the decision by unblocking the amount preserved fully or partially. It will also be immediately served to the claimant in accordance with the applicable rules on the service of documents.

*Amendment*

7. The decision will be immediately served **by the court** on the bank or banks concerned which shall immediately upon receipt implement the decision by unblocking the amount preserved fully or partially. It will also be immediately served **by the court** to the claimant in accordance with the applicable rules on the service of documents.

*Justification*

*It is necessary to specify that the decision will be served by the court.*

**Amendment 34**

**Proposal for a regulation  
Article 36**

*Text proposed by the Commission*

**Article 36**

***Remedies of the defendant in the Member State of his domicile***

***If the defendant is a consumer, employee or insured, he may also address the application for review under Articles 34 and 35 to the competent court in the Member State where he is domiciled to be notified to the Commission in accordance with Article 48.***

*Amendment*

***deleted***

### *Justification*

*To challenge an account preservation order as it applies across the EU the debtor should have to seek a review from the court which issued the order, but to ensure protection of individuals, who may live and hold accounts in more than one Member State, they should be able to challenge the implementation of an order in the courts of any Member State where they hold accounts as regards the order's implementation in that Member State.*

## PROCEDURE

<b>Title</b>	European account preservation order
<b>References</b>	COM(2011)0445 – C7-0211/2011 – 2011/0204(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 13.9.2011
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ECON 13.9.2011
<b>Rapporteur(s)</b> Date appointed	Elena Băsescu 13.9.2011
<b>Discussed in committee</b>	20.12.2011          6.2.2012
<b>Date adopted</b>	29.2.2012
<b>Result of final vote</b>	+:                    34 -:                    0 0:                    0
<b>Members present for the final vote</b>	Burkhard Balz, Udo Bullmann, Pascal Canfin, George Sabin Cutaş, Leonardo Domenici, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Syed Kamall, Philippe Lamberts, Astrid Lulling, Arlene McCarthy, Sławomir Witold Nitras, Ivari Padar, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Peter Skinner, Theodor Dumitru Stolojan, Sampo Terho, Corien Wortmann-Kool, Pablo Zalba Bidegain
<b>Substitute(s) present for the final vote</b>	Elena Băsescu, Philippe De Backer, Herbert Dorfmann, Sari Essayah, Enrique Guerrero Salom, Thomas Händel, Danuta Jazłowiecka, Olle Ludvigsson, Thomas Mann, Sirpa Pietikäinen, Godelieve Quisthoudt-Rowohl, Theodoros Skylakakis