FRENCH AND EU FREEZING ORDERS - INJUNCTIVE RELIEF IN FRANCE

By François Berbinau – Partner at BFPL AVOCATS – Paris, France

In France, any kind of preventive measure aimed at freezing a debtor's assets may only be undertaken by a bailiff ("Huissier de justice"). In certain circumstances, a creditor may directly seek from such bailiff that he/she applies measures that will freeze the assets of his/her debtor provided that the said creditor already has one of the following titles:

- A writ of execution
- A court decision not yet enforceable
- A bill of exchange that has been accepted
- A promissory note
- An unpaid check
- A residential lease drafted in the form of a deed (for unpaid rents)

Otherwise, a creditor may use legal techniques which will allow him/her to freeze the assets of his/her debtor before any judgment, pending a court decision on the substance of the dispute. These precautionary legal measures, referred to as "freezing orders", are quite effective in guaranteeing on a preemptive basis the subsequent execution of a judgment.

In 2014, the EU has released a regulation, which offers the possibility, under certain circumstances to obtain a European freezing order aimed at facilitating cross-border debt recovery in civil and commercial matters by authorization the seizure of bank accounts across the EU.

In addition to freezing orders, a party may use other legal tools to obtain prior to any court action an injunctive relief for a different purpose – i.e. obtaining evidences from another party which he/she may then use to file a claim on the merits.

I. FREEZING ORDERS IN FRANCE

Legal provision

Article L511-1 of the French civil enforcement proceedings code reads as follows:

"*Any person whose claim appears justified in principle may seek from the judge an order for any an interim measure to be enforced on the assets of his/her debtor, without prior notice, if he/she justifies circumstances likely to threaten the recovery of his/her claim.*
The interim measure can either be a preventive seizure or a judicial security."

Types of freezing orders

There are two types of freezing orders in France: the "preventive seizure" and the "judicial security". These freezing orders prevent the debtor from organizing his/her insolvency when a judgment sentencing him/her to pay his/her debt has not yet been issued.

Preventive seizure

A preventive seizure is a temporary seizure by a creditor whose claim is threatened of a movable property of his/her debtor.

Once his movable property seized temporarily, the debtor can no longer give, sell or damage the movable property subject to the preventive seizure. It may still use it though (e.g. he/she may still drive his/her car) unless of course it is money that has been seized.

Once sentenced on the substance of the claim to pay its debt, if the debtor does not repay the creditor, the seized property can be sold to indemnify the creditor, or, if such property is an amount of cash on a bank account, it can be transferred to the creditor for payment of his/her debt.

Judicial security

A judicial security is a guarantee granted to a creditor whose claim is threatened over certain specific assets of his/her debtor as listed under Article L.531-1 of the French civil enforcement proceedings code.

The peculiarity of this measure is that the debtor's assets which are subjected to a judicial security remain alienable and assignable; they may thus be sold by another creditor or by the debtor himself.

However, the creditor who is the beneficiary of the judicial security will be granted a preferential right and a resale right on the asset.

While the preventive seizure mainly concerns movable property, judicial security tends mainly to make certain valuable goods unavailable in order to cover important claims.

According to Article L.531-1 of the French civil enforcement proceedings code, judicial security may be applied only on buildings, businesses (going concerns), shares or securities.

Examples of judicial securities include mortgages, pledge of a business, surety bonds…

This procedure is more cumbersome that that of a preventive seizure and thus more expensive because, among other things, it will be necessary for the creditor to carry out publicity measures to inform third parties of the unavailability of the debtor’s property.

The issuance of a freezing order is subject to certain conditions

There are essentially two conditions required from a creditor seeking a freezing order as provided by Article L511-1 of the French civil enforcement proceedings code:

- The creditor must prove that he/she has a claim which “appears to be justified in principle” – i.e. he/she does not need to prove that his/her claim is valid on the merits (certain, of a fixed amount and due) but only that its existence is reasonably plausible.

- The creditor must justify circumstances likely to threaten the recovery of his/her claim/debt.

Freezing orders can be justified, for example, if the creditor fears that the debtor is seeking to sell his/her assets to avoid paying him/her.

Finally, since the procedure to seek freezing orders is ex parte – i.e. without information of the debtor, thus guaranteeing the effect of surprise when the seizure is carried out – the creditor must also prove that, if the debtor were to be informed of his/her initiative aimed at obtaining a freezing order, there is a risk that such debtor would organize his/her insolvency (e.g. transfer the funds out of his/her bank accounts).

The procedure to seek, obtain and enforce freezing orders

The creditor must file a petition seeking a freezing order from a judge of the tribunal of first instance of the debtor's domicile. In general this the Judge of Enforcement ("Juge de l'Exécution") but for matters for which the Tribunal of Commerce has jurisdiction, it is the President of the said tribunal.

The petition must be reasoned. It must prove that the conditions hereinabove are met and specify both the amount of the claim/debt and the nature of the assets to be seized.

Depending on the tribunal, the debtor's attorney may be heard or the judge may decide simply on the basis of the petition and supported evidence filed. But in any case, it is an ex parte procedure.

If the judge refuses to grant the freezing order, the debtor may make one or several other attempts after strengthening his/her petition, including with new evidence.

If the judge issues a freezing order, the creditor has three months to have the order enforced by a bailiff. Once the order enforced, the creditor has one month to file a court action to obtain a decision with a writ of execution, whether a judgement on the merits or a summary order ("ordonnance de référé") acknowledging his/her claim.

The enforcement procedures for preventive seizures and judicial orders differ.

Enforcement procedure for preventive seizures

The implementation of a preventive seizure is a four step process:

Firstly, the bailiff appointed by the creditor must proceed with the seizure of the debtor's assets either in the debtor's hands or in the hands of a third, especially the bank holding the debtor's accounts.

Secondly, the bailiff must officially inform the debtor, which is done at the time of the seizure when it is implemented on assets that are in the hands of the debtor, or within eight days of the seizure when it is carried out in the hands of a third party (e.g. a bank).

Thirdly, within one month from the enforcement of the seizure, the creditor will need to initiate proceedings in order to obtain a decision on the substance of his/her claim that will bear a writ of execution. If the seizure has been performed on assets held by a third party (e.g. a bank), the

creditor needs to officially inform this third party of the court proceedings he/she has undertaken within eight days of the introduction of such action.

Finally, once the creditor has obtained such a court decision with a writ of execution acknowledging his/her claim, the preventive seizure may be converted into a final enforcement, allowing him/her to obtain payment of the amounts which the debtor has been sentenced to pay. Unlike for judicial orders, this decision does not need to be res judicata.

Enforcement procedures for judicial orders

Judicial orders are opposable to third parties on the day of the completion of the formalities of publicity. These formalities are of the utmost importance because although several creditors may have a security interest on the same property, those who were first to register their claims will be paid off if the property is sold.

There are two distinct of advertisings provided under Articles L.532-1 and subsequent of the French enforcement civil procedures code. The judicial order must first be provisionally advertised and it is only after the creditor has obtained a court decision with a writ of execution that he/she will be able to confirm his/her rights by a definitive advertisement.

The procedure applicable for the provisional advertising will depend on the nature of the property that is the subject of the security. A mortgage on a building or a pledge of a business will follow different formalities and be subject to distinct requirements.

In order to be valid, the provisional publicity the bailiff must officially inform the debtor within eight days of the above mentioned formalities. The provisional advertising guarantees the security for a period of three years, which may be renewed for another three years pursuant to Article R.532-7 of the French civil enforcement procedures code). However, as explained hereinabove, the creditor must confirm the provisional advertisement with a definitive advertisement, which must be made within two months from the date on the judgement acknowledging the creditor's claim has become res judicata. This judgement will allow the creditor to turn the judicial order into a forced sale of the assets to recover the amount of his/her claim.

In the absence of such confirmation in due time, the provisional publicity is null and void and the debtor may seek its cancellation in court.

Can debtors challenge a freezing order?

A debtor may challenge either the merits of the freezing order or its implementation.

Challenging the merits of the freezing order may lead to its annulment or at least to amending its object. There are three ways for a debtor to achieve such results. He/she may seek either:

- the release of the measure (seizure or security) – when the conditions for issuing a freezing order are not met, the debtor is entitled to seek the release of the measure and it is up to the creditor to prove that such conditions are met. Furthermore, if the debtor provides an irrevocable bank guarantee in accordance with the measure sought by the seizure, it releases the security measure;

- the revocation of the order – as for the release of the measure, the debtor may seek the revocation of the order when the conditions for issuing a freezing order are not met, but his/her action is based on general principles of French law whereby when an order is issued at the outcome of ex parte proceedings, the party who was not informed and did not participate to these proceedings is entitled to challenge that order before the judge who issued it;

- the substitution of the measure – at the debtor's request, the judge who has issued the order may substitute the precautionary measure initially ordered with any alternative measure that will safeguard the interests of the parties.

Finally, it should be pointed out that pursuant to Article L. 512-2 of the French enforcement proceedings code provides that when the release has been ordered by the judge, the creditor may be ordered to pay damages to the debtor for the prejudice caused by the precautionary measure.

A debtor may apply to the judge for the waiver of the preventive seizure if he/she considers that it is not justified.

It is up to the creditor to then prove that the conditions for the preventive seizure are fulfilled.

If the judge orders the waiver, the creditor may be sentenced to indemnify the damage caused by the freezing order.

II. EUROPEAN FREEZING ORDERS OVER BANK ACCOUNTS : "EAPO"

EU Regulation n°655/2014 of the European Parliament and of the Council dated May 15, 2014 (the "Regulation") has established a European Account Preservation Order ("EAPO") procedure to facilitate cross-border debt recovery in civil and commercial matters.

This Regulation stems from the conclusion that national procedures for obtaining protective measures such as account freezing orders, though they exist in all EU member states, vary significantly when it comes to the conditions for the grant of such local measures and to the efficiency of their implementation.

The EU has thus decided to adopt a legal instrument which is both binding on and directly applicable in its member states. The Regulation establishes a new procedure which is meant to allow in cross-border cases, for the preservation, in an efficient and speedy way, of funds held in bank accounts. However, this Regulation raises a number of issues related to the conditions of the granting of an EAPO, its implementation, and ultimately its real efficiency.

What is an EAPO?

An EAPO is an order issued by a jurisdiction of a Member State that allows a creditor to freeze the banking assets held by its debtor in a Member State in order to prevent the subsequent enforcement of the creditor's claim on the substance of the dispute from being jeopardized through the transfer or withdrawal of funds by the debtor prior to such enforcement.

The main characteristics of the Regulation

An additional and optional tool: The procedure established by this Regulation serves as an additional and optional means for the creditor, who remains free to make use of any other procedure for obtaining an equivalent measure under national laws. However, the creditor may not submit to several courts at the same time parallel applications for an EAPO against the same debtor aimed at securing the same claim, and when seeking an EAPO, it shall declare whether he has lodged an application for an equivalent national order against the same debtor aimed at securing the same claim or whether it has already obtained such an order.

Limited to civil and commercial matters: The scope of this Regulation covers all civil and commercial matters with some exceptions. In particular, it does not apply to claims against a debtor subject to bankruptcy proceedings. Arbitration is also excluded under Article 2 of the Regulation.

Dedicated at freezing bank accounts: The Regulation applies to the freezing of bank accounts – i.e "any account containing funds which is held with a bank in the name of the debtor or in the name of a third party on behalf of the debtor". Funds are defined in the Regulation as money credited to an account in any currency, or similar claims for the repayment of money, such as money market deposits.

Limited to cross-border cases: The Regulation applies to cross-border matters only – i.e. cases in which the court dealing with the application for an EAPO is located in one Member State and the bank account concerned by the EAPO is situated in another Member State, or when the creditor is domiciled in one Member State and the court as well as the bank account to be seized are located in another Member State.

Applicable in the EU except the UK and Denmark: The Regulation only applies to those Member States which are bound by it in accordance with the relevant treaties. Therefore, only creditors who are domiciled in a Member State bound by this Regulation may seek an EAPO, and EAPO issued under this Regulation shall relate only to the preservation of bank accounts which are maintained in any such Member State. For purposes of the Regulation, Ireland has notified its decision to be bound by this Regulation, whereas the United Kingdom and Denmark have decided that they shall not be bound by it or subject to its application.

A freezing order applicable before any trial: The procedure for an EAPO is available to creditors wishing to secure the enforcement of a later judgment on the substance of the matter prior to initiating proceedings on the substance of the matter and at any stage during such proceedings. In case a creditor has applied for an EAPO before initiating proceedings on the substance of the matter, it shall initiate such proceedings and provide proof of such initiation to the court before which he has sought the EAPO within 30 days of the date on which he filed the application or within 14 days of the date of the issuance of the EAPO, whichever date is the later. If the creditor fails to do so within the above mentioned time period, the EAPO may be revoked or terminated.

It is also available to creditors who already have an enforceable court decision, though we will not elaborate on this aspect of the Regulation.

A freezing order available to claims whether due or not yet: The EAPO is available for the purpose of securing claims that have already fallen due. It is also available for claims that are not yet due as long as such claims arise from a transaction or an event that has already occurred and their amount can be determined, including claims relating to tort, delict or quasi delict and civil claims for damages or restitution which are based on an act giving rise to criminal proceedings.

A seizure limited to the amount of the principle claim: A creditor may request that the EAPO be issued in the amount of the principal claim or in a lower amount.

Standard forms are available: In order to facilitate the application of the Regulation in practice, standard forms have been established, in particular, for the application for an EAPO, for the EAPO itself, for the declaration concerning the preservation of funds and for the application for a remedy or appeal under against the EAPO.

Respect of EU fundamental rights and principles: The Regulation respects the fundamental rights and observes the principles recognized in the Charter of Fundamental Rights of the European Union. In particular, it seeks to ensure respect for private and family life, the protection of personal data, the right to property, and the right to an effective remedy and to a fair trial as established in Articles 7, 8, 17 and 47 thereof respectively.

Jurisdiction

Jurisdiction to issue the EAPO is that of the courts of the Member State which have jurisdiction to rule on the substance of the matter – i.e. any proceedings aimed at obtaining an enforceable title on the underlying claim including, for instance, summary proceedings such as the French "procédure de référé".

However, if the debtor is a consumer domiciled in a Member State, jurisdiction to issue the EAPO belongs to the courts of that Member State.

Courts of the Member State in which the EAPO was issued shall have jurisdiction over any action by the debtor aimed at granting remedies against the issuance of the EAPO. Courts or, where applicable, competent enforcement authorities in the Member State of enforcement shall have jurisdiction over any action by the debtor aimed at granting remedies against the enforcement of the EAPO.

Conditions required to issue an EAPO – standard of proof

When a creditor applies for an EAPO prior to obtaining a judgment, the court having jurisdiction shall assess and be satisfied with the evidence submitted by the creditor that (i) the creditor is likely to succeed on the substance of his claim against the debtor, (ii) its claim is in urgent need of judicial protection and (iii) that, without the EAPO, the enforcement of a future judgment may be impeded or made substantially more difficult because there is a real risk that, by the time the creditor is able to have the a future judgment enforced, the debtor may have dissipated, concealed or destroyed his assets or have disposed of them under value, to an unusual extent or through unusual action.

Main characteristics of the proceedings for the issuance and the enforcement of an EAPO

Ex parte proceedings: In order to ensure the surprise effect of the EAPO, and to ensure that it will be an efficient mean for a creditor trying to recover debts from a debtor in cross-border cases, the debtor should not be informed about the creditor's request for issuance of an EAPO nor of the EAPO itself until its implementation.

The creditor has the right to appeal the refusal to issue an EAPO.

Enforcement of the EAPO:

An EAPO issued in a Member State shall be acknowledged and thus enforceable in other Member States without the latter requesting any special procedure or any declaration of enforceability.

The Member State of origin is required to transfer the EAPO to the relevant authority of the Member State of enforcement by any appropriate means.

Upon receipt of the EAPO, the relevant authority of the Member State of enforcement shall take the necessary steps to have the EAPO enforced in accordance with its national law.

Depending on the method available under the law of the Member State of enforcement for equivalent national orders, the EAPO shall be implemented by blocking the preserved amount in the debtor's account or, where national law so provides, by transferring that amount to an account dedicated for preservation purposes.

The EAPO, along with all documents submitted by the creditor to the court in the Member State of origin and any necessary translations must be served on the debtor promptly after the enforcement of the EAPO. This will allow the debtor to eventually exercise its right to challenge the EAPO and/or its enforcement as mentioned hereinabove.

When the EAPO is enforced on several accounts in the same Member State or in different Member States, or if it has been issued after the implementation of one or more equivalent national orders against the same debtor and aimed at securing the same claim, the creditor must take all necessary steps to ensure the release of any amount which, following the implementation of the EAPO, exceeds the amount specified in the EAPO.

Liability of the creditor and defense against the EAPO

Guarantee provided by the creditor to deter and/or compensate an abusive use of the EAPO proceedings:

In case a creditor has applied for an EAPO before initiating proceedings on the substance of the matter, it shall be required to provide security for an amount sufficient to deter the creditor from abusing the EAPO procedure and to ensure compensation for any damage suffered by the debtor as a result of the EAPO being enforced if the creditor is liable for such damage. However, the court issuing the EAPO may decide to waive this obligation of the creditor if it considers that the provision of such security is inappropriate in view of the circumstances of the case.

The burden of proof of an allegedly abusive use of the EAPO proceedings weighs on the debtor. But the Regulation sets a non-exclusive list of circumstances where the creditor is presumed at to be at fault.

The law applicable to the liability of the creditor shall be the law of the Member State in which the EAPO was enforced. Consequently, if the EAPO has been enforced on accounts in several Member States, the law applicable to the liability of the creditor shall be the law of the Member State of enforcement in which the debtor has its habitual residence or, failing such situation, which has the closest connection with the case.

The debtor as well as third parties may challenge the EAPO, its enforcement, or offer an alternative security:

Considering the ex parte nature of the proceedings for the issuance of the EAPO, the debtor's right to a fair trial and his right to an effective remedy are guaranteed. The debtor may indeed challenge the EAPO itself or its enforcement on several grounds immediately after its implementation. It may request that the EAPO be reconsidered (revoked or amended), in particular if the conditions set out for its issuance were not met or if the circumstances that led to its issuance have changed in such a way that such issuance is no longer founded (e.g. the dispute happens not to be a cross-border dispute under the Regulation; the creditor did not initiate proceedings on the substance of the matter within the period of time provided for in this Regulation).

The debtor may also challenge the enforcement of the EAPO (e.g. on the ground that certain amounts held in the account are exempt from seizure under local law).

Furthermore, the debtor has the right to apply for the release of the funds seized as a result of the enforcement of the EAPO if it provides appropriate alternative security.
Finally, third parties may as well challenge an EAPO and/or its enforcement.

Practical issues raised by the EAPO

Since the Regulation has entered into force less than three years ago, on January 18, 2017, there has been little use of it in France. This may have to do with the rather strict requirements provide in the Regulation, which, in certain instances, are more stringent that those provided under French law when seeking a freezing order to be enforced locally.

In addition, certain notions and terms included in the Regulations may give rise to interpretation and clients are rarely eager to act as guinea pigs when it comes to experiencing a new legal tool. Therefore, even though some cases are now reaching the CJEU (see Opinion of the Advocate General Maciej Szpunar presented on July 29, 2019 in Case C-555/18 - K.H.K. v. B.A.C., E.E.K), it might take some time before EU case law secures a number of issues raised by the Regulation.

III. OTHER INJUNCTIVE RELIEF IN FRANCE : Article 145 of the French Procedure Code

In France, in the absence of a discovery process as we know it in the US, Article 145 of the French Civil Procedure Code provides a rather powerful tool to be used in pre-litigation in order

to secure evidence which are held by a potential adversary or even a third party, prior to starting a court action.

It reads as follows:

"*If there is a legitimate reason for keeping or establishing before any trial the evidence of facts that might be relied upon in the solution of a dispute, the legally admissible measures of inquiry may be ordered at the request of any interested person, upon the filing of an application or in summary proceedings.*"

What are the conditions for such injunctive relief?

There are essentially two conditions required to seek and obtain an order pursuant to Article 145 French Civil Procedure Code.

- It must be requested "*before any trial*"

- The plaintiff must prove that there is a "*legitimate reason*" for keeping and/or establishing the evidence of facts which the solution of a dispute may depend upon.

Any judge assessing a request for an order has to verify that these two requirements are met and in doing so, he/she must be cautious considering that the proceedings usually are ex parte.

What is the process to seek and obtain an order pursuant to Article 145?

Any interested person, usually the future claimant contemplating an action on the merits, may either file a petition with the judge or have a writ of summons for summary proceedings served onto the defendant.

A writ of summons for summary proceedings is a normal writ summons delivered to the other party requesting her to appear before a judge under a summary proceedings. A hearing date is set rapidly and parties will debate before the judge of the legitimacy of issuing an order under Article 145.

On the contrary, the petition, which contains a written argument and relevant evidence supporting the request for an order under Article 145 as well as a proposed draft of order, is an ex parte procedure. Therefore, in addition to the general conditions described hereinabove for seeking an order under Article 145, the petitioner must also prove that, if the party holding the evidence sought were to be informed of the petitioner's initiative, there would be a risk that such party would take measures to prevent any collection of these evidence (e.g. destroy, transfer or hide the documents which are being targeted by the petitioner).

As for a petition seeking a freezing order, depending on the tribunal, the petitioner's attorney may be given the opportunity to orally argue his case before the judge or the latter may decide simply on the basis of the petition and supporting evidence filed.

If the judge decides to grant the order, he/she may either use the draft provided by the petitioner, which he/she will amend as he/she sees fit. In certain tribunals, such as the Tribunal of Commerce of Paris, judges systematically included a provision in the order that prevents the bailiff carrying out the order from communicating any of the documents seized to the petitioner

until a hearing dedicated to a review of such documents by the judge in the presence of both the petitioner and the party whose documents have been seized. This is to allow a debate between them over issues such as business secrets or attorney privilege protecting certain of the seized documents. It is also a precaution to avoid a petitioner from using the Article 145 ex parte procedure to carry out "fishing expeditions" at the premises of a competitor to gain an advantage in bad faith.

If the judge refuses to grant the order, the petitioner may eventually to strengthen its case with additional arguments and supporting evidence and petition again. Since the party holding the evidence sought by the petitioner is not informed of the judge's refusal to grant the order the first time, the new petition may still be ex parte, thus guaranteeing the effect of surprise if the order is finally granted and carried out.

How is the Article 145 order enforced?

Once the order is granted by the judge, the petitioner uses the services of a bailiff. The order usually provides that the latter may be accompanied by police officers, a locksmith, and eventually a computer expert, to enter and search the premises, computers and servers of the party targeted by the order. The premises can be any place such as a work place or a person's domicile. For purposes of securing a surprise effect, such measures will usually take place early morning around 7am and eventually in several places at the same time by different bailiffs.

Once the documents (which may be papers but also electronic documents such as emails or computer folders) are seized, the bailiff keeps them in his/her office. Depending on what the order provides, he/she may release a copy of the seized documents to the petitioner or keep them until a hearing is set before the judge in the presence of the parties as mentioned hereinabove.

Ultimately, if the petitioner succeeds in obtaining documents through this process, he/she may decide to use them as supporting evidence for an action on the merits and/or a summary proceedings. Typically, Article 145 orders may be used by a petitioner who has reasons to believe that a competitor is acting unfairly. If he/she collects proof of acts of unfair competition, he/she then may use them to start a court action and file unfair competition claims.

What is the purpose served?

Primarily, the purpose of the Article 145 procedure is to try to secure evidence in preparation for a future litigation.

However it also often serves an unsaid purpose, which is to exercise pressure and/or obtain a leverage, whether psychological or judicial, and use it against the other party in a commercial dispute.

What kind of defense is there against an Article 145 order?

As for the exercise of any right, using Article 145 has its limit which lies in its potential misuse/abuse. Indeed, sometimes petitioners will use the Article 145 order for hidden purposes such as getting vital information on their competitors and/or disrupting their business.

The procedural move opened to the party challenging an Article 145 order obtained after an ex parte petition is to seek the withdrawal of the said order before the judge who has issued it.

Within one month from the execution of the measures authorized by the Article 145 order, the party challenging this order can file a writ of summons under a summary adversarial proceedings and request that the judge withdraws his/her decision based on the fact that the conditions of Article 145 and for use of an ex parte procedure were not met. If he/she succeeds and the order is withdrawn, the documents seized are returned to him/her.

References

1. Article L511-1 of the French civil enforcement proceedings code
2. Article L.531-1 of the French civil enforcement proceedings code
3. Articles L.532-1 and subsequent of the French enforcement civil procedures code
4. Article L. 512-2 of the French enforcement proceedings code
5. EU Regulation n°655/2014 of the European Parliament and of the Council dated May 15, 2014 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0655)
6. Opinion of the Advocate General Maciej Szpunar presented on July 29, 2019 in Case C-555/18 - K.H.K. v. B.A.C., E.E.K
7. Article 145 of the French Civil procedure code