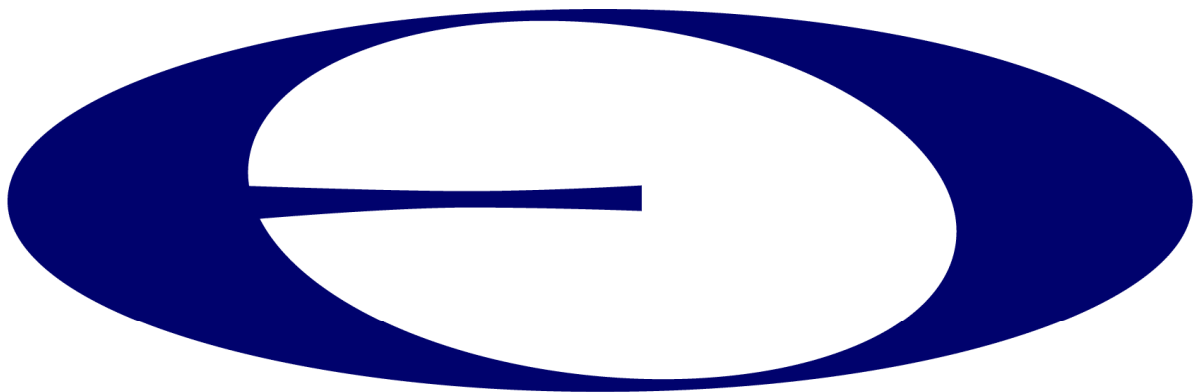


STOP!

YOU HAVE BEEN ARRESTED

*a brief introduction to the Law
in Belgium, Germany, Greece and the Netherlands on
PROVISIONAL ATTACHMENT / ARREST*



EUROJURIS

Practice Group Transport & Insurance Law

PREFACE

Dear reader,

This is the second publication of the Eurojuris International Practice Group Transport & Insurance Law.

Eurojuris International (www.eurojuris.net) is the leading network of law firms in Europe, covering 630 cities in over 40 countries worldwide. Its members team up in Practice Groups, which focus on specific legal fields.

One of the goals of our PG is to deliver a publication on a cross border topic at the occasion of each Eurojuris International event. These publications will be made available not only to the PG members but also to their (prospective) clients and other interested parties.

For our second publication we chose "Provisional attachment/arrest" as our topic. Although issues regarding attachments and arrests are not specifically confined to the field of transport and insurance law, attachments and arrests do play a particularly important role in this field of practice, due to the often time critical nature of the transport business. Knowing what the basic risks (and opportunities) associated with attachments and arrests in different jurisdictions are, is of vital importance for any company involved with international transport.

We sincerely hope that this publication will be of use to its readers and that it will be followed by many more.

Bram Marcus & John Wolfs

Chairmen Eurojuris International Practice Group Transport & Insurance Law

SUMMARY

QUESTIONS	4
<i>Regulatory issues</i>	
<i>The procedure leading to provisional attachment</i>	
<i>Some practical questions</i>	
<i>Follow-up after attachment</i>	
<i>Miscellaneous</i>	
ANSWERS	7
<i>Belgium</i>	<i>7</i>
<i>Germany</i>	<i>11</i>
<i>Greece</i>	<i>16</i>
<i>The Netherlands</i>	
INTRODUCTION OF THE MEMBER-WRITERS	22
MEMBERS OF THE PRACTICE GROUP TRANSPORT & INSURANCE LAW	23

Provisional attachment¹: *“A prejudgment attachment in which the debtor’s property is seized so that if the creditor ultimately prevails, the creditor will be assured of recovering on the judgment through the sale of the seized property.”*

QUESTIONS

The following questions were presented to the contributing members:

Regulatory issues

1. a. What is the legal regulatory basis for a provisional attachment/seizure in your jurisdiction?
- b. Does the law in your jurisdiction explicitly provide for “maritime” attachment (i.e. the attachment of (seagoing) vessels and/or other means of transport)?
- c. Does the law in your jurisdiction explicitly provide for provisional garnishment (i.e. the provisional attachment of the debtor’s property - such as wages or bank accounts - held by a third party)?
- d. Does attachment create jurisdiction (i.e. does the fact that an attachment was made in your jurisdiction also make that the Court in your jurisdiction will find itself competent to hear and decide the procedure on the merits)?

The procedure leading to provisional attachment

2. Please describe – in short – the procedure leading to a provisional attachment, (e.g. is the procedure started by filing a petition to the Court or by issuing a writ or other procedural document, which Court has to be addressed, what is the typical timeframe from the moment the petition is filed until the permission is granted etc.).

If necessary please make a distinction between the several types of assets, that can be attached (e.g. movables/immovables, bank accounts, means of transport etc.).

¹ Black’s Law Dictionary, 7th Edition

Some practical questions

3. Does your law system require that the requesting party states and proves (if so, to what extent) “periculum in mora” (i.e. show danger of disappearance of the goods one wants to attach)?
4. Does your law system require that the requesting party states and proves (if so, to what extent) “fumus boni iuris” (i.e. give prima facie evidence of the claim for which attachment is requested)?
5. Does your law system require a court hearing of the debtor before permission for attachment is granted?
6. Does your law system require that the requesting party provides security for costs and/or damage incurred by the debtor in case the requesting party ultimately loses the case?
7. Does your law system allow appointing a receiver (sequestrator) for attached goods?

Follow-up after attachment

8. a. What, if any, actions can the debtor undertake to have the attachment lifted? Please describe – in short – under which conditions the attachment can and/or must be lifted and which procedures are necessary in that respect.
b. In particular: is it possible to have the attachment lifted against the debtor putting up security and, if so, which requirements does the security have to meet?
9. a. What actions does the creditor have to undertake in order to prevent the provisional attachment to expire or become invalid (e.g. does the creditor have

to issue a writ or other procedural document within a certain timeframe)?

b. After receiving the judgment/title to enforcement, what actions – if any - does the creditor have to undertake in order to prevent the (provisional) attachment to expire or become invalid?

Miscellaneous

10. Please state any further issues that would be of interest to parties contemplating the possibilities of a provisional attachment in your jurisdiction or who are confronted with a provisional attachment in your jurisdiction.

ANSWERS

Below the answers are found, listed per jurisdiction:

BELGIUM

1. a)

There are 2 conditions needed as basis for a conservatory arrest: urgency and the non disputed character of the claim.

Both conditions are joint conditions which means that they both have to be fulfilled.

On the second condition (recognition of the claim) is one exception: ships can be arrested on the basis of an allegation. No recognition of claim is needed.

1. b)

The answer is yes. The Brussels Arrest Convention 1952 is partly inserted in art. 1468 and 1469 Judicial Code.

Art. 1468 Judicial Code defines the definition of a maritime claim.

Art. 1469 Judicial code contains the rules for arresting vessels in the relations between shipowner, charterer and the creditor.

1. c)

Belgian law provides the possibility to arrest bank accounts of debtors.

Wages can also be seized within certain limits (not below 1.054,00 € per month net).

1. d)

A conservatory arrest doesn't create jurisdiction. Jurisdiction is only determined by the general principles such as E.U.-Regulation 44/2001, the rules provided by the Belgian Judicial Code, etc ...

2.

The general principle is that a request to seize or arrest is presented to the Court together with a complete file establishing the urgency and the non disputed

character of the debt. The Court decides in a very short time (mostly the same day) whether the authorization is granted.

The Bailiff is then instructed to proceed immediately to the arrest of the movables, bank accounts, means of transport, etc ...

The seizure of a real estate property lasts a longer time, as the claimant has to join some documents (mortgage-registration), which have to be delivered by the competent institutions.

In the case of a bankaccount arrest, the claimant does not even need an authorisation of the Court: bank accounts can be arrested directly without an authorisation.

3.

It is up to the claimant (requesting party) to prove the urgency of the arrest in front of the risk that the debtor organises his insolvency.

There are no strict rules. It is up to the Court to decide, on the basis of the documents, whether there is urgency. It will depend from case to case and from judge to judge.

4.

The same applies with regard to the existence of the claim and its non disputed character.

There will be no difficulty to get an authorisation from the Court in case of unpaid invoices accompanied by reminders to pay.

The same applies for a formal acknowledgment of the debt by the debtor.

A survey report, withholding all liability against the debtor, may also be considered as prima facie evidence of the claim.

5.

The procedure requesting an authorisation to arrest is unilateral. The debtor will not be heard in order to avoid that he takes away all his assets to be seized.

6.

Our law system does not require that the claimant provides security for costs and/or damages.

There is however one exception: in the case of maritime arrests the Court can impose a guarantee in order to secure damages in case the arrest of the ship should be declared non admissible after an opposition procedure by the ship owner. Since about 10 years the Antwerp Court does not impose a guarantee anymore.

7.

In case goods are seized that can be moved (e.g. a truck, a stock of valuable goods) or have an extreme high value (e.g. jewels, diamonds) the Court can appoint a sequestrator who has the responsibility for the custody and the keeping of the arrested goods.

The nomination of the sequestrator has explicitly to be requested.

8. a)

Yes, the debtor can ask the lift or release of the arrest. He therefore has to start a procedure by issuing a writ of summons against the claimant within a term of 30 days as from the arrest.

The main arguments to be used by the debtor are the non fulfilment of the conditions of urgency and the non disputed character of the claim.

8. b)

It is possible that the Court lifts the arrest or releases the ship in case of a maritime arrest after delivery of a bank guarantee by the debtor.

9. a)

The term of a conservatory arrest is 3 years to count from the notification of the decision of arrest. The Court can even fix a shorter term.

However, if the substance of the claim is not been decided within a term of 3 years, the arresting party can ask a renewal for another term of 3 years.

This renewal has to be asked explicitly via a new request and in case the term of 3 years elapsed without request of renewal, the arrest is automatically lifted.

10.

The Belgian Judicial Code provides a very advanced system with regard to conservatory arrests.

About 80 articles in the Judicial Code are dedicated to conservatory arrest.

A particular magistrate called “beslagrechter / juge des saisies” deals with all kinds of problems about arrests : granting the authorisation, deciding about the opposition, etc ...

The consequence is that an authorisation to arrest is delivered very quickly, mostly the same day as the request is presented to the Court.

For arrests on bank accounts there is no authorisation of the Court required.

The counterweight for arresting goods or bank accounts, based on illegitimate conditions, is a compensation to be fixed by the Court.

GERMANY

1. a)

The legal regulatory basis for a provisional attachment/seizure is Artt. 916 et seq. ZPO (German Code of Civil Procedure)

1. b)

There are special regulations for the execution of a provisional attachment in connection to vessels registered in Germany. The registration court has to be informed by the addressed court. The bailiff will take the vessel for legal custody (Art. 931 ZPO).

1. c)

Yes, provisional garnishment is mentioned in Art. 930 Par. 1 Cl. 3 ZPO. The court competent for the provisional attachment/garnishment (Art. 919 ZPO = Court competent for the main proceedings [local court (Amtsgericht) or district court (Landgericht)] or the local court (Amtsgericht) of that place where the garnishee lives) is also competent for its execution.

1. d)

Generally a provisional attachment itself does not create jurisdiction for the main proceedings. But often the court competent for the main proceedings is chosen as the court competent for the attachment order (see above 1. c), Art. 919 ZPO).

Just in case of disputes concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight (Art. 5 No. 7 Council Regulation (EC) No. 44/2001) the court will find itself competent to hear and decide the procedure on the merits.

2.

*The creditor has to file an Application for a provisional attachment order to the competent court (Art. 920 Par. 1 ZPO) or he has to declare his application to the clerk of the court of the competent court (Art. 920 Par. 3 ZPO) (see above 1. c) Art. 919 ZPO).

*The competent court is the court competent for the decision on the merits of the case or the local court (Amtsgericht) of that place where the goods are located (Art. 919 ZPO).

* The Application has to include the claim and the grounds for the provisional attachment (§§ 920 par. 1, 916, 917 ZPO). The creditor has to furnish prima facie evidence by making an affidavit (an affirmation in lieu of oath) concerning his claim and the grounds (actions by the debtor to disappoint the creditor's claims, natural phenomenon, actions by third parties or criminal actions by the debtor). In this context he has to be aware of his criminal liability, if he does not tell the truth. But generally German courts handle these grounds in a very restrictive manner.

* The court has to decide if the opponent should comment on the application in written form or if there have to be oral proceedings. This decision depends on the circumstances and the urgency. The more the circumstances are arguable and the more the legal status is complex the more hearings would be necessary. In this context the court has to consider a pre-emptive brief (Schutzschrift) which might have been sent by the debtor to the court in advance (see below 5.)

* If there have been oral proceedings, the competent court has to decide by final judgement. If there has been a written procedure, the competent court decides by court order (Art. 922 Par. 1 ZPO).

* Typical timeframe: one day to one week without hearings; up to two or three weeks with a hearing

3.

Yes, the requesting party has to furnish prima facie evidence of the danger of disappearance of the goods (Artt. 920 Par. 2, 917 ZPO). The creditor has to make an affidavit (an affirmation in lieu of oath) concerning the danger of disappearance of the goods. In this context he has to be aware of his criminal liability, if he does not tell the truth.

4.

Yes, the requesting party has to furnish prima facie evidence of the claim for which attachment is requested (Artt. 920 Par. 2, 916 ZPO). The creditor has to furnish prima facie evidence by making an affidavit (an affirmation in lieu of oath)

concerning his claim. In this context he has to be aware of his criminal liability, if he does not tell the truth.

5.

Court hearings are not obligatory (see Art. 922 ZPO, see above Arabic numeral 2.4.). The debtor may send a pre-emptive brief ("Schutzschrift") to several courts (all these courts, where the creditor may apply for a provisional attachment) in advance, so he can present his own point of view. Usually the court decides for oral proceedings, if there is a pre-emptive brief. Before the creditor has not applied for a provisional attachment he is not allowed to ask the court, if there is a pre-emptive brief already.

6.

A security for costs and/or damages is not obligatory. It is at the sole discretion of the court, if the requesting party has to furnish security. Usually the requesting party has to furnish security, if she is not able to furnish prima facie evidence of the danger of disappearance of the goods or of the claim for which attachment is requested (Art. 921 ZPO).

7.

Ex officio the bailiff in charge is the receiver for the attached movable goods. If these goods are not money, preciousness or securities, the goods can be left in the possession of the debtor, but a seal has to be fixed to these goods. If the creditor's gratification is endangered, the bailiff has to take the goods away for legal custody (Art. 808 Par. 1, 2 ZPO)

But if the creditor seizes the claim for restitution concerning certain immovable goods (houses et cetera), he can apply to the district court (where the house et cetera is) for the nomination of a sequester (Art. 848 Par. 1 ZPO).

8. a)

1) Objection:

The debtor files an objection (Widerspruch) to the provisional attachment. He has to give some reasons for his objection. If the court competent for the attachment is a district court, the debtor may declare the objection to the clerk of the court. But the

at-attachment would not be inhibited by the objection. The court is allowed to order a provisional dismissal of compulsory execution (Art. 924 Par. 1, 2 Cl. 1, 3, Par. 3 ZPO).

The court has to schedule a hearing (Art. 924 Par. 2 Cl. 2 ZPO).

The court has to decide by final judgement (Art. 925 ZPO). This final judgement is only related to the provisional attachment, not to the main proceedings.

2) If the competent court orders a provisional attachment and there are still no main proceedings:

The debtor may apply to the court for an order, so that the creditor has to file an action against the debtor within a certain period of time. If the creditor would not do so, the creditor may apply for the cancellation of the provisional attachment (Art. 926 ZPO). It is at the sole discretion of the court, how long this time period shall be (minimum two weeks; usually one month).

The creditor may request the debtor to provide a final declaration which states that the debtor waives to file an appeal. Otherwise the creditor would file an action against the debtor. In answering to the request the creditor has to set the debtor a target of an appropriate time period up to one month.

3) The circumstances have changed:

The debtor may apply for the cancellation of the provisional attachment, if the circumstances have changed even if the court has confirmed the attachment before (Art. 927 Par. 1 ZPO). If the main proceedings are pending, the competent court for this decision is the court which has to decide on the merits of the case. Otherwise the court which ordered the attachment is the competent court (Art. 927 Par. 2 ZPO).

The court has to schedule a hearing.

The court has to decide by final judgement (Art. 927 Par. 2 ZPO).

8. b)

The debtor may deposit a certain sum stated in the attachment order, so the attachment would be inhibited and the debtor is allowed to request its cancellation (Art. 923 ZPO).

The debtor has to pay the sum to the bailiff or he has to prove the security by an official deed which states the deposit of the security (Art. 775 No. 3 ZPO).

9. a)

The creditor has to execute the attachment within one month after the creditor has received the provisional attachment order or the court has pronounced the final judgement. Otherwise the execution of the attachment order would not be allowed (Art. 929 Par. 2 ZPO).

9. b)

The creditor has to serve the attachment order to the debtor (Art. 922 Par. 2 ZPO). A final decision will be served by court automatically.

The creditor has to apply to the correct executory officer for the correct execution (Artt. 930 – 932 ZPO: attachment of goods, attachment of debt, attachment of vessels, mortgage).

The execution may start before the debtor has received the attachment order. But he has to receive the attachment order within one week after execution of the attachment order or before the one-month-deadline mentioned above ends (Art. 929 Par. 3 ZPO, 9. a)).

10.

The creditor has to indemnify the debtor for the damages he suffered because of the provisional attachment or the security he had to provide, if the application for provisional attachment was without legal cause from the very beginning or if the creditor has not filed an action against the debtor within the time period ordered by the court (Art. 945 in connection to Art. 926 Par. 2 ZPO, see above 8.3))

The debtor may send a pre-emptive brief ("Schutzschrift") to several courts (all these courts, where the creditor may apply for a provisional attachment) in advance, so he can present his own point of view, which the court has to consider. Usually the court decides for oral proceedings, if there is a pre-emptive brief. Before the creditor has not applied for a provisional attachment he is not allowed to ask the court, if there is a pre-emptive brief already.

GREECE

1. a)

Mainly the Greek Code of Civil Procedure, (in conjunction with any special applicable law for the object that will be seized) governs the provisional seizure in Greece. (Art.682, 707-724)

1. b)

The Greek Code of Civil Procedure in article 713 and under the title provisional seizure of a vessel of an aircraft provides the procedure which has as follows: (713 1. The arrest of a ship, aircraft or rem over them in the possession of the debtor or a third person, is done by serving a copy of the decision ordering the seizure. If the seizure of vessels registered in Greece or aircraft that are written in a register kept in Greece, a copy of the decision and the authority shall keep the register or the register. In case that the seized is in the possession of a third party, a copy of the decision that the ordering is served and in the third. 2. the request for the service of a copy of the decision ordering the arrest must identify the vessel, aircraft or land right which is intercepted and the amount to be sequestration. 3. the authority which maintains the register or the register of aircraft writes the provisional seizure in the register or the register of aircraft. For the record, elimination and the order of records apply System.)

1. c)

The Greek Code of Civil Procedure provides a general article about seizure of debtor's claim without special provisions, but only in General. The procedure is similar to the seizure provides for assets. Depending on the kind of the claim a specific law may apply.

1. d)

The procedure that should be followed for the seizure of an attachment will be the Greek jurisdiction, since the seizure took place in Greece, and the merits will be given accordingly. Especially for vessels English Law may be applied.

2.

The procedure leading to a provisional attachment has briefly as follows:

The claimant should make a petition to the Court. The hearing of the case will be held in 3-6 months after having filed the petition. Meanwhile a provisional order may be requested to be issued by the judge, until the hearing of the petition of the provisional seizure. The judge is obliged to ask from the other party (defendant) to present within 3-4 days at his office to express his allegations about this petition. The same day of this hearing or the following day the judge is obliged to issue his order/notice. The claimant then has to serve officially this notice to the defendant (debtor) as well to whom it may concern (Banks, Insurance companies, Port Authorities etc.) The judge is not obliged to issue an order/notice following the claim of the petition in question but he may impose another kind of guarantee. This option is hardly used by the judges. Usually he either issues an order following the claim of the petition or he rejects it. This notice is valid until the first hearing of the petition. During the hearing and until the issuing of a decision, the claimant may ask from the court for a prolongation of the order. The decision on the petition is issued within 1-2 months. It should be served to the debtor and to whom it may concern. Within 30 days of the issuing of the decision, a claim should be raised otherwise the decision cannot be executed.

About the periods mentioned above, I should notice that it concerns the courts of Athens. In other courts the time periods are much shorter.

3.

The claimant should prove that a danger of disappearance of the goods that want to attach is eventual, in order to be granted with a permission. The permission is given by the court when this danger can be considered as eventual. The judge will check the general profile of the debtor, his assets before judging if the danger is eventual.

4.

According to the Greek Law the claimant should give some prima facie evidence of his claim but the Greek court will judge accepting the eventuality that the claim is proved.

5.

As mentioned before a hearing is needed even for a written order by the judge.

6.

The law system in Greece does not require that the requesting party provides security for costs and/or damage incurred by the debtor in case the requesting party loses the case. Though, the defendant may ask the judge, and the judge may impose some kind of security for the requesting party (a credit letter), in case of losing the case.

7.

Our law system allows the appointing of a sequestrator, especially in case of seizure of goods being in the possession of a third party. In that case the third party may be appointed as a sequestrator of the goods.

8. a)

The debtor may request from Court to lift the attachment imposed. This request is not so easily granted by Greek Courts. The debtor has to prove either that his economic situation has changed dramatically and request the change of the provisional measure imposed with a letter of guarantee or with another mean, or that new proofs have been revealed that the claim is totally and indisputably false, or that the attachment will lose its value (will be destroyed). In the last case, the court may order the sell of the attachment and impose a provisional seizure on the value of the attachment sold.

8. b)

As mentioned before, it is up to the judge to find the appropriate security in order to lift the attachment. The letter of guaranty from a bank is the most popular security.

9. a)

The creditor may request the permission from the court to sell up the provisional attachment before become invalid. In that case the judge will decide the appropriate way for this attachment to be sold up and the transfer of the security on the value of the attachment.

9. b)

After receiving the judgement to enforcement the creditor should bring an action within 30 days otherwise the judgment is invalid.

10.

Please state any further issues that would be of interest to parties contemplating the possibilities of a provisional attachment in your jurisdiction or who are confronted with a provisional attachment in your jurisdiction.

THE NETHERLANDS

1. a)

The regulatory basis is Section 3.4 of the Dutch Code of Civil Procedure (Art. 700 et seq.).

1. b)

Rules regarding the attachment of (seagoing and inland navigation) vessels and aircrafts are given in Section 3.4.6A and Section 3.4.6B of the Dutch Code of Civil Procedure. An attachment also needs to meet the requirements set out in international treaties regarding attachment, e.g. the International Convention relating to the Arrest of Sea-going Ships, Brussels, 1952. The attachment of other means of transport, and of vessels and aircrafts falling outside the scope of Sections 3.4.6A and 3.4.6B, is governed by the rules regarding the attachment of goods (movables) in general.

1. c)

Yes, it does in Section 3.4.4 of the Dutch Code of Civil Procedure.

1. d)

No, it does not. However, if, in case of provisional attachment against a debtor who has no residence in the Netherlands, a Dutch court is not competent according to Dutch law, European and international regulations/treaties and/or agreement and the competency of the Dutch court has not been excluded by agreement, the court of which the President gave leave for attachment is competent (Art. 767 Dutch Code of Civil Procedure).

2.

A petition signed by a Dutch lawyer, stating the name and place of registry of the claimant and the defendant, a short description of the claim and (if the claim is a monetary one) an estimated claim amount, to which approximately one third for interest and costs may be added, has to be filed with the competent President ("Voorzieningenrechter") of the District Court. The competent President is the President within whose jurisdiction the goods involved are located or, if the arrest

does not regard goods, the President within whose jurisdiction the debtor or the third party (garnishee) has its residence / place of registry. Regarding the provisional attachment of vessels and aircrafts, The President within whose jurisdiction a vessel or aircraft is expected to arrive is also competent. Except in cases of a petition requesting permission to attach wages, social security benefits etcetera, no hearing will take place. After a quick examination of the petition, the President will sign the petition and, thereby, estimate the amount of the claim and give his permission for the arrest. Especially when attachment has to be made very quickly (e.g. when a vessel that is about to leave the country has to be arrested), a permission to attachment can be given on a very short notice (within a few hours), and even in the weekends or at night. In general, a permission for an arrest is received within one or two working days. The permission is presented to the bailiff, who effects the arrest.

3.

Yes, in several cases (e.g. in case of provisional attachment of immovables) the requesting party has to state well-founded danger of disappearance of the goods involved. Often a statement of circumstances that justify the existence of this danger is sufficient, but sometimes the President asks for (more) proof.

Stating/proving danger of disappearance is not required if one requests for attachment of means of transport, since these goods are movable by their nature and the danger of disappearance of such goods is a fact.

4.

No it does not. A short description of the claim and the cause of action (facts and circumstances that - can - justify the claim) is sufficient.

5.

Only in some cases; see above at nr. 2.

6.

No, it does not. However, in extraordinary circumstances the President can grant the request for attachment under the condition that the requesting party puts up security before effecting the arrest. According to case law a party whose claim is

fully declined is obliged to compensate the damage that occurred from the (in retrospect: unlawful) attachment.

7.

Yes, it does.

8. a)

In order to have the attachment lifted, the debtor has to start summary proceedings before the same President of the District Court who gave permission for attachment. The debtor can also ask for lifting the arrest in a procedure on the merits, but such a procedure will take too much time. The President has to (is obliged to) lift the arrest when (a) the requesting party did not meet some procedural provisions, (b) his claim appears to be unfounded, (c) the attachment appears to be unnecessary and (d) the debtor puts up sufficient security for the (monetary) claim. In other circumstances the President has also the possibility to lift the attachment; he always has to take all interests involved into account.

8. b)

Yes, see at nr. 8.a. A security must be such that the claim, the interest on the claim and the costs are properly covered and that the creditor will be able to realize the security without difficulty. Often standardized guarantee forms are used, e.g. the Rotterdam Guarantee Form.

9. a)

In general, the President who grants the request for attachment gives the creditor a time limit of 14 days in order to start proceedings against the debtor. Extension of this time limit is possible, upon request. If proceedings did not start in time, the (provisional) attachment expires / becomes invalid.

9. b)

Upon service of the (enforceable) judgment / title to enforcement to the debtor, the provisional attachment automatically, by law, turns into an attachment (an attachment under execution; an enforceable attachment).

10.

In the Netherlands, the procedure leading to provisional attachment is very efficient, cheap and quick. Obviously, the system is in favour of the creditor; the debtor has to take action in order to have the attachment lifted. The most efficient way to do that is to put up security for the claim, to the amount estimated by the requesting party / President.

INTRODUCTION OF THE MEMBER-WRITERS

BELGIUM

Herman Naeyaert: founding partner of Naeyaert, Carsau & De Roeck Advocaten in Antwerp, Belgium and member of the Board of Eurojuris Belgium, mainly deals with trade and transport law cases. Herman, an alumnus of the University of Leuven, is considered to be one of the top specialists in Belgium in this field of practice. Herman often lectures on (maritime) arrests.

GERMANY

Dirk Hochstein: After studying in Bochum and Heidelberg, Dirk obtained a further LL.M degree at Andr ssy University in Budapest. Since 2007 Dirk is practising as a lawyer in D sseldorf. In addition to general commercial and trade law, Dirk specializes in transport law and will soon become a so called "Fachanwalt Transportrecht".

GREECE

Spyros Gallos Trimpalis: Spyros, a graduate of the Law School of the University of Athens, has been working for PD Law Offices since 1994. Spyros mainly deals with cases in the field of road, rail and air transport, as well as insurance cases.

THE NETHERLANDS

Peter van Dam: Peter has been working for Van Dam & Kruidenier Advocaten since 1999 and is partner at the firm as of 2009. A thorough professional, Peter has impressive ready knowledge of transport and inland shipping law as well as the law of obligations. This enables him to provide his clients with clear advice and, if necessary, assist them in litigation. Peter passed the Dutch Grotius specialization course in Transport Law with distinction.

MEMBERS OF THE PRACTICE GROUP TRANSPORT & INSURANCE LAW

BELGIUM

De Vidts, Ewoud (ewouddevidts@advocaat.be)

Naeyaert, Herman (herman.naeyaert@antlaw.com)

FINLAND

Eskola, Petri (petri.eskola@backstrom.fi)

GERMANY

Allmann, Liane (info@eurojuris.de)

Bock, Christian (C.Bock@rsw-beratung.de)

Breitsprecher, Urs (breitsprecher@busekist.de) *

Frank, Gerhard (frank@busekist.de)

Hochstein, Dirk (hochstein@busekist.de) *

GREECE

Gallos Trimpalis, Spiros (s.gallos@pdlawoffices.gr)

MALTA

Galea, Anthony (anthony.galea@dfadvocates.com)

THE NETHERLANDS

Dam, Peter van (pvd@damkru.nl)

Gog, Peter van (info@vangogvanrijsbergen.nl)

Marcus, Bram (marcus@damkru.nl)

Wolfs, John (j.wolfs@wolfsadvocaten.nl)

* application pending