

EU ENFORCEMENT ATLAS

Civil enforcement in the EU: a comparative overview

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Executive summary

Enforcement is the ‘putting into effect’ of judicial decisions and other judicial or non-judicial enforceable titles. The effective enforcement of binding judicial decisions is a fundamental element of the rule of law and a key requirement for the operation of the European area of justice.

According to the Consultative Council of European Judges (CCJE)¹, the enforcement procedure must be compliant with fundamental rights and freedoms, must be easily initiated, swift and effective and subject to a transparent regulatory framework. In addition, it needs to be accessible and understandable to all parties who are in need of enforcement services. The enforcement of judicial and extrajudicial documents in the EU remains a national affair and arguably one of the most ‘obscure’ elements of judicial systems. There is a notable lack of accessible and user-friendly information on the agents, the procedures, the requirements and their costs.

The ‘[EU Enforcement Atlas](#)’ project aspires to address this information gap by making information on national enforcement systems available and accessible to interested parties. The project covers the EU- 28 (30 distinct enforcement systems) at the time of implementation of the Enforcement Atlas project, namely: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom (England and Wales, Northern Ireland and Scotland).

Collecting robust -but accessible and understandable- information from each jurisdiction was the first step of the project. The present report takes the Enforcement Atlas project a step further: it analyses enforcement systems from a comparative perspective in an attempt to identify common and divergent trends, enabling factors and barriers that can play a role in the development of judicial enforcement in civil matters in the European Union. The report covers the main pillars of enforcement systems: legislative frameworks, the organization of enforcement, enforcement procedures and costs.

The report is structured in six chapters. Chapter 1 focuses on the legislative frameworks regulating enforcement, enforceable titles, the service of documents, legal remedies, postponement, suspension and termination of enforcement, counter enforcement, objects and exemptions, penalties and fines and access to information. Chapter 2 deals with the organization of enforcement and examines the professional status of enforcement agents, their obligations, territorial jurisdiction, supervision and control, disciplinary procedures, access to premises, remedies for obstructing enforcement agents among other issues. Chapter 3 focuses on enforcement procedures against movable assets, bank accounts, immovable property, wages, attachments under the debtors’ debtor, shares, other property rights, evictions, among others. Chapter 4 focuses on the enforcement of foreign enforceable documents from non EU states. Chapter 5 focuses on enforcement costs and explores the principles, international standards, the regulation of enforcement costs and exceptions and the transparency of fees. Chapter 6 summarises the findings and identifies enablers and barriers for the future.

All deliverables of the Enforcement Atlas project are accessible [online](#) and at the website of the [International Union of Judicial Officers](#). They will be integrated in the EU Judicial Atlas website.

¹ Consultative Council of European Judges (CCJE), Opinion No.13 (2010) on the role of judges in the enforcement of judicial decisions, CCJE(2010)2 Final.

Chapter I: Legal framework

Legislation in the member states differs in many respects, since local enforcement falls outside the scope of the competencies of the EU. This is the reason of the different approaches that shall be discussed hereunder. The question remains whether member states will try to ensure some alignment in this respect or whether they shall persist in national particularities. The digitalization of enforcement procedure, whenever attained, is bound to bring some but not necessarily a thorough alignment.

1.1. Legislation affecting civil enforcement

The main source of enforcement law in most member states with a civil law tradition is usually a code, although in some, enforcement law is found in special legislation rather than a code. In this context, in some member states more complex legislation scattered in various legal instruments exists.

In particular in **Austria**, the main legal basis for conducting enforcement proceedings is the “Exekutionsordnung” (Enforcement regulation – Enforcement Code, EO). In **Belgium**, civil enforcement procedure is regulated by the Belgian Judicial Code, which originates from a law of 10 October 1967. In **Bulgaria**, the Civil Procedure Code regulates the process. In **Croatia**, the main source of enforcement law is the Enforcement Act (not a code as it seems, but a specific law in any event). In **Estonia** the procedure for the enforcement of enforceable titles is governed by the Code of Enforcement Procedure. In **Finland**, it is the Enforcement Code of January 2008 as amended several times since then. In **France**, civil enforcement is currently regulated by certain articles of the Civil Enforcement Procedures Code, both as far as the legislative part and the regulatory part are concerned. Many provisions relating to enforcement are also found in the Code of Civil Procedure. In **Germany** it is the Code of Civil Procedure (ZPO) that regulates enforcement. In **Greece**, enforcement is conducted on the basis of the Code of Civil Procedure. In **Italy**, most rules on enforcement are to be found in the third volume of the Code of Civil Procedure, the Legislative Decree 30 May 2002, n. 113 single text of justice costs. In **Lithuania**, the Code of Civil Procedure and the Civil Code form the basis of enforcement, along with the Law on Judicial Officers. In **Luxembourg**, it is the ‘Nouveau code de procédure civile’ which applies in this respect. In **Malta** the applicable provisions are found in different codes, the Code of Organisation and Civil Procedure, the Criminal Code, the Commercial Code and the Civil Code, each of them regulating specific legal relationships. In the **Netherlands**, the basic laws on civil enforcement are the Dutch Civil Procedure Code (book 2) and the Civil Code. Enforcement in **Romania** is also based on Codes, namely, The New Civil Code, The New Civil Procedure Code, The Commercial Code of Romania, and Law no. 188/2000, on judicial officers. In **Slovakia**, the legal instrument governing the enforcement procedure is Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code). **Slovenian** legislation on enforcement is primarily the Enforcement and Securing of Civil Claims Act (ESCCA) of 1998, as amended (a sole act and not a code). The **Czech Republic** needs to be singled out as an example of a major reform in 2001, with the enactment of Act No.120/2001 Coll. on Judicial Officers and the Enforcement Activity (hereinafter the Enforcement Code) and amendments that followed later. It looks that up until 2001, court judgments were virtually unenforceable, and the vast majority of creditor rights were not satisfied. In 2001 the Enforcement Code introduced the institution of the judicial officer, based on the principle that any activity of a judicial officer begins when court proceedings have come to an end. In **Cyprus**, the absence of a Code is mitigated by the existence of special legislation such as the Law on Enforcement Procedure, Cap. 6 and (ii) the Civil Procedure Rules issued by the Supreme Court and securing measures, Orders 40-47 of the CPR. This special legislation although not a code as such, seems to be creating a legal environment like the one of a code. **Denmark** has a special law, to wit, the Law on Enforcement Procedure: Retsplejeloven (in English: The Danish Administration of Justice Act). The Danish Administration of Justice Act regulates the rules of the structure of the Courts of Denmark, as well as the structure of the police and the Prosecution Service. It also regulates, e.g., the conditions on how to become an attorney as well as the rules for the courts’

handling of civil and criminal cases in general. **England & Wales'** enforcement system is also based on special laws: In 2007 the UK Government introduced the Tribunals Courts and Enforcement Act of 2007. Parts 3 and 4 covers enforcement. This is coupled by the Taking Control of Goods Regulations (2013). **Hungary** also has a rather complex system. The general rules of judicial enforcement are set out in Act LIII of 1994 on Judicial Enforcement. In court enforcement, the laws of Act CXXX of 2016 on the Code of Civil Procedure are applied in a subsidiary manner, while special rules are found in different laws. **Ireland** also lacks a code and legislation applicable to enforcement consists of certain provisions found in the Companies Act 2014, District, Circuit and Supreme Court Rules 1986, Income Tax Act 1967, Enforcement of Court Orders Act 1926 and Court Officers Act 1926. In **Northern Ireland**, the main piece of legislation is the Judgments Enforcement Order. **Latvia's** related legislation is scattered in various laws, relating to the profession of judicial officers, the Administrative Liability Law and various other laws. **Poland** has a rather complex legal environment with provisions scattered in codes such as the Code of Civil procedure, the Civil Code and the Labour Code as well as in a number of other special laws, e.g. on banking and bankruptcy. In **Portugal**, the legislation that regulates the enforcement process is very extensive, being subject to the provisions of more than a hundred legal instruments, such as Laws, Decrees, Ordinances, Minister's Decrees, amongst others, which undergo several amendments and adaptations over time. **Scottish** enforcement law also consists of various instruments, such as the Debtors (Scotland) Act 1987; Debt Arrangement and Attachment (Scotland) Act 2002 and the Bankruptcy and Diligence etc. (Scotland) Act 2007. In **Spain**, the legislation that affects civil enforcement is quite wide. The core law is the Spanish Procedural Act, but there also exist special rules for certain matters in other acts. In **Sweden**, the legislation of central relevance to the enforcement procedure includes, the Service Act, the Enforcement Code, the Enforcement Regulation, the Service Regulation, the Swedish Code of Judicial Procedure and the law on Demand for Payment and Enforcement Assistance.

1.2. Enforceable titles

An enforcement title is the legal basis for granting the right to enforce a claim and for carrying out enforcement proceedings. Enforceable titles are not the same within the EU, although one could single out some broad categories. Judgments of courts, arbitral awards, notarial deeds and administrative decisions are directly enforceable in almost all civil law jurisdictions whereas in common law jurisdictions the definitive enforcement titles are the court judgments and the arbitral awards.

Further, enforceable titles emanating from other EU member states are also enforceable on the basis of the at the time applicable EU regulation, while other foreign non-EU foreign enforceable titles can also be enforceable, either on the basis of bilateral conventions or on the basis of the national law of the country of enforcement. Mediated settlement agreement can be enforceable, in most jurisdictions after the granting of enforcing effect following state intervention, although other arrangements are also met.

Special enforcement titles exist in some jurisdictions, like an extract from Special Pledges Registry for registered collateral and for initiation of execution; a pledge agreement or mortgage deed under Art. 160 and Art. 173, para. 3 of the Obligations and Contracts Act; - an act establishing private dues to municipality or the state in case enforcement is subject to the civil procedure; - promissory note, bill of exchange or other securities of a warrant, as well as a bond or coupons thereon, all of them in the case of Bulgaria. In the case of Croatia, there is a distinction between directly enforceable titles (ovršne isprave) and trust-worthy documents (vjerodostojne isprave). The difference between them is substantial, in terms of the competent authorities for issuing the enforcement order, its contents and the possibility to lodge an appeal against it, as well as its (suspensory/non-suspensory) effect. The term trust-worthy documents encompasses invoices, bills of exchange and cheques with the protest clause and return invoices whenever that is required to establish a claim, official documents, extracts from the creditor's sales register in a bookkeeping system, legalized private documents and documents

regarded as official documents under special laws. Calculation of interest is also regarded as an invoice and thus a trust-worthy document. In Cyprus, documents such as Mortgage agreements, Administrative acts pertaining to satisfying pecuniary claims issued by other administrative bodies, Invoices in utility cases, Cheques and Bills of Exchange. Bills of exchange and cheque payment orders are special titles of enforcement in the Czech Republic. In Estonia, this applies also to decisions of various alternative dispute resolution bodies, to sentencing decisions, tax notices, statements of compulsory auctions, enforcement officers' decisions on enforcement officers' fee and invoices for notary fees and notarized agreements.

Nordic EU jurisdictions (**Sweden, Denmark and Finland**) do not have notarial deeds and enforceable titles seem to be limited only to judgments, decisions and orders of courts or tribunals. Similar is the position in **England and Wales** where all enforceable titles are obtained in the High Court, County Court and Magistrates Court in the form of writs or orders. In **France**, special enforcement titles are those issued by a judicial officer in case of non-payment of cheques or agreements between the creditor and the debtor and Payment demands from social organisations (social security etc.) while in **Germany** one should single out the particularity of youth welfare documents and in **Greece** eviction orders relating to leasehold. In **Hungary**, the same stands for a judicial notice on a disciplinary fine, if collection of such fine imposed in the course of an enforcement procedure is carried out by an independent court bailiff. In **Ireland** there exists a basic distinction between directly and indirectly enforceable titles, the former being judgments and the latter anything ranging from Settlement agreements to dishonoured cheques, mediation agreements, European payment orders, European Enforcement Orders, Mortgage agreements, Foreign court decisions, Foreign arbitration awards, Invoices and Contracts. In **Italy**, extrajudicial enforceable titles include certified private agreements, regarding obligations as to the sums of money stated therein, promissory notes and other negotiable instruments, and documents to which the law attributes the same force. In **Latvia**, the same stands for Invoices issued by notaries, advocates and judicial officers, while in **Lithuania** this applies to Prosecutor's sanctions regarding eviction of natural persons from residential premises and other prosecutor's orders, in so far as they relate to pecuniary enforcement, to resolutions of the Labour Disputes Commission and to resolutions of other institutions and officials whose enforcement in civil proceedings is determined by law. In **Malta**, special enforcement titles include also all contracts in the form of a public deed recorded in the Public Registry of Malta. In **Portugal** special enforcement titles are credit titles, provided that in this case, the facts constituting the underlying relationship are contained in the document itself, in particular promissory letters, bills of exchange and bank cheques, documents to which enforceable force is granted by special regulations, injunction requests to which an enforceable formula has been attached, resumes of condominium assembly documents, where the amount of contributions or quotas due to the condominium was deliberated and rental contracts of urban buildings accompanied by proof of communication for resolution of the contract and for the enforcement of delayed rents and the delivery of the immovable. In **Romania**, the list includes Credit contracts, including collateral or personal security contracts concluded by a credit institution, Bills of exchange, cheques, and promissory notes, Lease agreements, Mortgage agreements, Contracts for legal assistance, Agricultural leases and certain documents issued by the judicial officer as defined in law. In **Scotland**, the same applies to "extract registered document" which are available where the parties have agreed a contract, possibly a financial arrangement following divorce, a commercial lease or a commercial loan. There must be a specific clause within the contract, where the parties agree to register the agreement for "preservation and execution". In **Slovakia**, such special titles are a payment assessment, statement of arrears for taxes and fees, and conciliation approved by the appropriate body, an enforceable decision and statement of arrears for social security, social insurance, the old age pension scheme and public health insurance, another enforceable decision, statement of arrears or approved conciliation that is enforceable by law and in Slovenia it is the land charge (Ger. die Grundschuld, Art. 192-200 Property Code) and it becomes enforceable when the claim is due. In **Spain**,

the same applies to conciliation minutes in labour law matters and finally in **Sweden**, enforcement authority's decisions regarding eviction of natural persons from residential premises and other prosecutor's orders in so far as they relate to pecuniary enforcement as well as resolutions of other institutions and officials whose enforcement in civil proceedings is determined by law.

The above enumeration of the various special titles of enforcement demonstrates a considerable convergence as to the enforcement titles within the EU as well as specific particularities that seem to be linked to functionality issues pertaining to the legal systems in question.

1.3. Service of documents to parties and third parties

Service of documents in the context of civil enforcement is of paramount importance, as it is the starting point of all enforcement process. Member states' legislation differs in this respect in two axes: the first is the person who is authorized to do the service and the second is the use or not of electronic means in this respect.

The basic requirement is for service to be effected in person to the addressee under certain conditions as to the time of the day and of the year when service is considered lawful, while it may be the case that service can also be lawfully effected on other persons defined in legislation. Apart from this, in some member states, the Court organizes the service (namely **Austria, Czech Republic, Finland, Cyprus, Lithuania, Slovakia and Slovenia**) while in other member states the service is in the hands of judicial officers working privately. In most countries, judicial officers are allowed to work only in particular parts of the territory. In practically all member states, service is made by judicial officers but their role is not identical. To start with, they can be either independent practitioners, in which case it is usually a party that appoints them or attached to court, in which case the service is run by the court with the use of the judicial officers. In some member states the default method of service is by post (**Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, Poland, Portugal, Slovenia**) and in other the judicial officers have an auxiliary role in case postal service fails (such as **Poland and Portugal**). In other member states, service can be effected either by post or by a judicial officer, without any preference or order whatsoever. E-service is also possible in countries like **Austria, Denmark, Estonia, France, Cyprus, Italy, Lithuania, Slovenia**, although it remains unclear to what extent this is an applicable reality or a provision without actual effect. Phone service exists in Bulgaria, Denmark and Finland. There is an obvious trend in favour of e-service but the relevant progress is not striking and in some member states it remains rather disappointing. The critical distinction is between postal service and service by judicial officer and this seems to be bound to continue, being an integral aspect of the legal traditions of the member states in question.

1.4. Legal remedies, appeal and objection

In case of enforcement, the person against whom enforcement is initiated must have the right to object, this being a fundamental legal right in the European Judicial Area.

In all member states, the enforcement order given by the relevant authority is subject to objection or appeal by the creditor, the debtor or the third-party debtor, if involved in the process. Such objections/ appeals are addressed to courts and in some member states, it is the so-called "enforcement judge" who takes care of the matter. Usually objections/ appeals are on formal or substantive grounds and if a third person is involved, that person may have special grounds of appeal. In most member states such objections/ appeals must be filed within prescribed in law time limits (although there are countries like **Denmark**, where no time limit applies). Certain member states' laws, for example **Estonia**, contain very specific legal remedies that appear to be part of an effort to break down wider categories of remedies to narrower and more focused ones. On this basis, in **Estonia**, a party to the enforcement proceedings can file a claim for the declaration of compulsory enforcement inadmissible, a complaint about the decision/activities of the enforcement officer, a claim for the declaration of an

auction invalid and a claim upon acceptance of an enforceable title for enforcement where legal succession has been applied while a third party can file a claim for the release of property from seizure or for the declaration of compulsory enforcement inadmissible in another manner.

1.5. Postponement, suspension and termination of enforcement

The right to object to enforcement would be weakened, if not ineffective, were it not for the person having the right to object, to also have the right to ask for postponement/ suspension of enforcement. The debtor in most jurisdictions has the right to ask for the postponement of the enforcement procedure by the competent court. The standard burden of proof for the debtor who asks for suspension is to prove, (in some members states only on the level of probability), that he or she would suffer irreparable or nearly irreparable damages as a result of enforcement. In most jurisdictions, the court has to consider the stage of enforcement, the probability that the appeal or action shall be successful, the possible detriment to the parties resulting from a stay or continuation of enforcement and the other corresponding factors. Another element is that if the value of the attached property depreciates rapidly or the costs of maintenance of the property are high or if an announcement has been published on the auction, the sale may be stayed only for an important reason or if in the first two cases security is lodged to provide compensation for the costs and loss. Other points related to enforcement are the ones of provisional measures, enforcement measures and security interests. In some jurisdictions the judicial officer can postpone enforcement ex officio, provided certain objective reasons to this effect do exist, such as the provision of proof of payment by the debtor or the agreement of the debtor to cover the claim by instalments.

Termination of enforcement is also critical, in the sense that it is the point when all enforcement procedures come to an end. The general rule is that termination takes place with the full payment of the claim and additional related costs, or the successful and final appeal against the enforcement procedure, or the final revocation of the enforcement title or its enforceability.

1.6. Counter enforcement

Counter enforcement in the context of an ongoing enforcement is a question that merits special attention, although it is present in only some of the jurisdictions discussed in this report. In most jurisdictions, counter enforcement may run independently of the running enforcement and not on its context. A noteworthy alternative is the right to repay to the debtor monies and/or assets collected as result of enforcement based on repealed (at certain point of the procedure or after accomplishment thereof) or annulled title. This will happen after the end of the enforcement proceedings and the debtor will be entitled to request from the court to instruct the creditor to return what has been retrieved as the result of the enforcement. There are counter-enforcement mechanisms in countries such as **Denmark, France and Greece**. In **France**, counter-enforcement is ruled by “compensation”. The compensation will consist in charging the debt on the claim for which it therefore reduces the amount (or pays it entirely depending on the amounts concerned). In **Greece**, if the court accepts a caveat or an appeal against a title that has been already enforced, it may order restoration to the original condition and/or ask for compensation. They can be implemented by the debtor or a third-party under specific provisions that are stipulated in the applicable legislation.

1.7. Objects and exemptions on enforcement

In principle, enforcement can be effected on all assets of the debtor. This however is not a universal truth in all jurisdictions, there do exist certain exemptions to this rule, in the sense that certain assets are excluded from enforcement, depending on the importance they may have for the person in question, as regards the preservation of a minimum standard of life. Such goods are usually the clothing of the judgment debtor and his/her family, as well as cooking utensils and essential family furniture, with the exception of luxury furniture and luxury goods, any property necessary for the pursuit of the education or professional training of the seized person or of dependent children living

under the same roof, certain explicitly described items, usually furniture or the goods indispensable to the profession of the enforcement debtor, (usually up to a certain value). Other items can be study and religious literature, school items and children toys, wedding rings, documents of personal nature, pictures and audio and video recordings relating to the debtor or his family members and data carriers of such recordings unless they can be transferred to another data carrier, and other objects of similar nature, health care aids and other similar items needed by the debtor or his/her household member due to his/her illness or disability, cash calculated in comparison to the individual subsistence minimum of a person in the specific country, animals, whose economic effect is not the main purpose of breeding and which serve people as companions, sacred objects and items used in the practice of a religion. Further, in practically all jurisdictions a part of the salary is excluded from enforcement as well as child support and alimony amounts. An interesting note is the one made regarding **Finland** and could potentially apply also to other member states, that the prohibition on fragmentation of assets in the course of enforcement must be observed.

The enumeration of exempted items demonstrates the genuine interest of the member states' legislation to cater for the personal needs of citizens and non-citizens that reside in their territory. All are related to the kernel of human personality and the need for its protection, this being a common element in all members states (albeit expressed in varying ways) and an expression of the common European values.

1.8. (Court) penalties and fines

Civil enforcement is a mandatory/ public policy process that is carried by authorized professionals to this effect. This being said, such professional may occasionally have the right to impose penalties and or fines in the context of such enforcement. In most jurisdictions though, it is for the court to impose such fines and not on the judicial officer. The extent of the intervention of the court differs and can be as strong is to impose periodic fines (eg **Belgium**) and it can even result to short time imprisonment (**Croatia**).

1.9. Access to information on the domicile and assets of the debtor

The effectiveness of enforcement presupposes access to information on the domicile and assets of the debtor. In all member states, this can be attained through public registers that contain such data. Needless to say, that not all member states share the same types of registers. Most member states do not have a unitary data base (with the exception of Latvia with the REC which seems to be the most complete unitary all-inclusive database and the Czech Republic, the latter in relation to enforcement only). Some of the data within these registries are freely available to the public, other are granted to officials including judicial officers in accordance with and to the extent of their statutory prerogatives, typically bound by secrecy obligations. The later usually applies in case of enforcement.

Such data bases include (with different names in each member state) the land registry, the companies' registry, the commercial resort, the beneficial owner registry, the vehicles registry, the employees' registry, revenues registry, bank accounts registry, the registry of matrimonial property relations, the social security database, the registry of labour contracts, the registry of pledges. An interesting particularity of some countries (eg Cyprus, Denmark, Finland and the Czech Republic) is the request of declaration throughout the enforcement procedure. This places an obligation on the debtor to declare their assets to the Court as part of the enforcement process for certain information and under certain conditions. The obligation of the confidential use of such data bases does exist in practically all members states, in the sense that the user of information can use it only for the purpose that they are taken for. A particularity of **N. Ireland** is that third persons may have obligation to give information to the judicial officer to assist the process in case that the officer is of opinion that a person is or may be able to give information regarding the assets (and liabilities). Such person may be summoned by to attend in person, at a time and place specified in the summons, for examination regarding such assets

and liabilities and to produce all books, documents and things in their possession or under their control relating to those assets and liabilities.

A person who, without reasonable excuse, does not attend in pursuance of a summons may be ordered by the Judicial Officer to attend in person for examination. Against a person who is evading service of the summons or the order, or without reasonable excuse did not attend the hearing a warrant for arrest may be issued by the Judicial Officer, on the written application on behalf of the creditor.

One can detect an effort of all member states to organise public registries with a view to offer data for enforcement purposes. However, the level of completeness is not the same throughout the EU. A striking characteristic is that the vast majority of the member states are not seemingly keen on creating unitary data bases and continue keeping various databases, each of them containing particular information.

Chapter II: Organization of enforcement

2.1 The professional status of the enforcement agent

Enforcement is dealt with by the “enforcement agent” (Rec 17/2003 and CEPEJ 2009 Guidelines). This word covers a wide variety of persons (e.g. bailiff, huissier de justice, enforcement judge etc) who have in common an authorisation by the state to carry out the enforcement process². Enforcement agent is a generic term and neither the Council of Europe nor the European Union have adopted a formal position on the professional and institutional status of enforcement agents.

Their role, responsibilities, organisation and professional status vary considerably as do their working conditions and remuneration: in the majority of EU member States, enforcement agents are either (1) enforcement agents subordinated to the courts (2) civil servants subordinated to the Ministry of justice, or (3) self-employed persons acting independently. In several MS a mixed system is in place: enforcement agents either employed by the Ministry of Justice or self-employed (e.g. Bulgaria). The three dominant models are the following:

1. Court enforcement

The model where enforcement professionals are *court enforcement agents*, directed by a judge and enforcement activity is accomplished generally by courts with or without interference of the executive branch.

2. Civil servant based enforcement

The model where enforcement professionals are *civil servants* and the organisation of enforcement activity is dealt with outside the courts, for example through the Ministry of Justice.

3. Self employed enforcement

The alternative model where enforcement professionals are *independent*, and enforcement activity is dealt with outside the courts on a self-employed, entrepreneurial and competitive market level.

There are significant differences between the enforcement agent as a civil servant and the (growing trends in Europe of) the self-employed enforcement agent:

Table 1: Comparison of civil servant based and self-employed enforcement

	Civil servant-based enforcement system		Self-employed enforcement
	Enforcement through court	Enforcement through executive department	
Advantages	Professionalism High standards Level of debtor protection	Fast Flexible Less expensive for the State budget	Rapid Efficient Inexpensive for the State budget Professional quality
Disadvantages	Expensive Slow Rigid Over-formalised	Lack of quality Lack of independence Opportunity for corruption	Costly for consumers Difficult to change Need for control

The enforcement agent as a court officer

² Rec 17/2003 under 1B

This is the case in *Austria*: the enforcement agent works in the court under the authority of the jurisdiction officer (*Rechtspfleger*) or (in some cases) the judge. Another example is *Croatia* where enforcement administrators are employed as judicial bailiffs, who are public servants. They are employed by the court upon prior approval of the Ministry of Justice. The same applies to *Cyprus*: the judicial officer is a public servant who carries out, under the control of the Registrar, the acts relevant to the enforcement of judicial decisions, such as executions of writs or sale of movable property. Private bailiffs have no competence in relation to enforcement but only in the service of documents. In *Denmark*, the judicial officer, as a judge of the enforcement court, carries out enforcement. However, this judicial officer does not have the monopoly of enforcement of court decisions and other persons may have the power to enforce, e.g., a prosecutor, a lawyer, solicitor or equivalent, a notary and a police authority. In *Ireland*, judicial officers and sheriffs are quasi judiciary. In *Northern Ireland*, enforcement is organised by the (centralised) Enforcement of Judgments Office, administered by the Northern Ireland Courts and Tribunal Service.

The enforcement agent as a civil servant

One of the most significant examples of the enforcement agent as a civil servant is the Austrian and German *Gerichtsvollzieher*. In these countries, there is a division of the work: the *Rechtspfleger* is involved in the more “intellectual” aspects of enforcement (Germany: *Rechtspfleger*, Sweden: *kronofogden*) and the practitioners effect the “practical work” (Germany: *Gerichtsvollzieher*, Sweden: *Kronoinspektör*).

Countries with a civil servant system include, for example *Sweden*, *Finland* (National Enforcement Authority Finland is an agency under the Ministry of Justice) and *Malta*. In this case, the main focus is on the organization of enforcement as a whole, rather than the individual enforcement officer. For example, in Sweden, enforcement is the responsibility of the Enforcement Authority. The employees of the Authority are the executive officers. The responsibility of the executive officer as such is in his/her capacity as a state employee and not in his/her own right. With regard to responsibility, the focus is the responsibility of the Enforcement Authority as such and not of a specific executive officer. Should the Enforcement Authority make payments to the wrong party, the Authority shall as soon as possible rectify the mistake and if needed compensate the damage by its own means.

The enforcement agent as a self-employed (independent) professional

The role of the self-employed enforcement agent is public in nature. The legislator has assigned particular exclusive powers to the enforcement agent, sometimes, in addition to enforcement, additional tasks such as the service of documents. Given that they have exclusive powers for various tasks, the self-employed enforcement agent cannot refuse to assist a person subject to trial who requests their services.

As they are self-employed professionals, they work independently and impartially. For income as well as for source of financial support of their operations, these agents rely on fees regulated by a tariff. To safeguard the balance between the challenges of a self-employed profession and the demands for justice, the enforcement agent, as a public officer is subjected to monitoring and control through the State. Several countries with a self-employed (private) system explicitly mention in legislation that self-employed agents, although working independently, cannot be considered entrepreneurs (e.g. Poland).

The level of education of self-employed enforcement agent is high; in most countries a law degree as one of the requirements for appointment, followed by several years of practice. For example, in Belgium, in addition to knowledge and experience, judicial officers must have academic training and in-depth practical experience (they must hold a Bachelor or Master of Law followed by an internship of two years culminating in an approval examination).

Secondary (non-enforcement) activities such as debt collection or statement of facts are integrated in the official activities of the self-employed enforcement agent. Normally these enforcement agents cooperate with their colleagues in other areas. In most cases they are well organised in a professional national body of which they are compulsory members. Most of these national organizations have been able to raise standards in relation to qualifications and ethics (e.g. by adopting byelaws for the profession).

This is the case in: *Belgium, Bulgaria, Czech Republic, England and Wales, Estonia, France* (who will merge their profession with the judicial auctioneers), *Greece, Hungary, Latvia, Lithuania, Luxemburg, Netherlands, Poland, Portugal, Romania, Scotland, Slovakia, Slovenia*.

2.2. Obligations of Enforcement Agents

In general, enforcement agents are obliged to perform their role whenever they are legally required to do so, unless there is a justified reason not to carry out enforcement. This is the case, for example, when they are related by blood or marriage to a party or in cases of impediment. In this regard, there is no difference between the enforcement agent acting as a civil servant or as a self-employed agent.

Enforcement agents active as self-employed professionals in several legal systems are required to open a non-attachable account specifically intended for depositing funds collected on behalf of clients. The word “non-attachable” indicates that the enforcement agent is not the “owner” of this bank account and of the money deposited in this bank account. Rights arising from the account are vested in the rightful claimants jointly. Another obligation imposed on enforcement agents includes the requirement to have professional and civil liability insurance.

2.3. Geographical distribution of enforcement services

Geographical and case-based distribution of enforcement is regulated by international principles. CEPEJ Guidelines remark: *The geographical distribution of enforcement agents within a country should ensure the widest possible coverage for all potential parties. Within a single member state, when different authorities are tasked with taking action in different areas of enforcement (i.e. the judge responsible for enforcement and treasury officials), it is important to pay close attention to the distribution, both geographical and case-type, of all the authorities concerned. Every part of the jurisdiction should have adequate coverage for each type of enforcement activity.*³ In most countries the jurisdiction of the enforcement agent is limited (an exception is the Netherlands, where enforcement agents have a nation-wide competence).

Table 2: Territorial jurisdiction of enforcement

Belgium	Jurisdiction is limited to the territorial jurisdiction of the court of first instance of the place of residence. When documents have to be served to a debtor in another judicial district, the judicial officer must refer this to a colleague with relevant territorial jurisdiction.
Bulgaria	The state officer’s jurisdiction is limited to the jurisdiction of the district courts, their office being part of the court’s structure.
Croatia	All enforcement administrators under one court can carry out enforcement in the whole territory of the court of employment.
Cyprus	Territorial competence is determined on the part of the national territory by which they are allocated (in competition with one or several other Judicial Officers.)
Estonia	The areas served by enforcement officers are established by ministerial regulation. The enforcement officer can initiate enforcement proceedings against a debtor whose place of residence or seat or assets are located in the area served. When the debtor’s assets are located outside their place of residence or seat, the enforcement officer may seize them outside the area served by the enforcement officer.

³ CEPEJ 2009 Guidelines under 13

Finland	The National Enforcement Authority Finland has a network of 64 offices covering the entire territory of Finland. Individual enforcement cases are handled independently by the enforcement units. Competence in individual enforcement cases lies with the enforcement officer in charge of the matter. Enforcement services are provided by enforcement inspectors, senior enforcement inspectors and chief enforcement officers. Each debtor has an enforcement officer in charge.
Germany	The enforcement agent is an organ of the administration of justice and is active exclusively in an assigned area. The local courts have enforcement agent distribution offices, which collect orders from creditors to the enforcement agents in the respective district of the local court and assign them to the competent enforcement agent. Unless otherwise provided, the enforcement agent's local jurisdiction is limited to the district assigned to him/her.
Greece	Each Judicial Officer operates within the geographical jurisdiction of the Appeal Court where appointed. Judicial Officers appointed at the Appeal Courts of Athens and Piraeus are permitted to exert their duties in both territories.
Hungary	The judicial district and the area of jurisdiction of a bailiff are the same as that of the district court where appointed. The cases in progress in a specific judicial district are handled by the bailiff having jurisdiction for the county in question; the cases in progress in Budapest and in Pest County are handled by the bailiff having jurisdiction for Budapest and Pest County. If an enforcement procedure initiated in a specific district involves the attachment of immovable property, the bailiff having jurisdiction for that district implements the procedure throughout the country.
Ireland	Judicial officers are allocated to one county. They cannot execute orders in other counties.
Northern Ireland	Nominated Officers and Enforcement Officers are each allocated to a district of Northern Ireland.
Lithuania	There are 114 judicial officers in all territories of Lithuania. A certain area of jurisdiction is established for each judicial officer. One area of jurisdiction may have (and mostly does have) at least two judicial officers.
Luxemburg	Every judicial officer is competent, in competition with one or several other judicial officers, on a part of the national territory (jurisdiction of Luxemburg or Diekirch).
Netherlands	The Dutch enforcement agent is authorized to perform official acts within the territory of the Netherlands. The enforcement agent is obliged to perform the official acts for which he/she is authorized within the court district in which his/her office is located.
Poland	Enforcement matters fall under the competence of the district courts and the enforcement agents acting there. Enforcement operations are carried out by the enforcement agents, except for operations reserved for courts. The enforcement agent is a public functionary who acts by the district court. More enforcement agents may operate in one district.
Romania	The judicial officers fulfil their duties in the jurisdiction of the appellate court within the area in which the court next to which they operate is located, unless otherwise provided by law.
Scotland	Judicial officers hold public office, in the form of "personal commission" issued by the relevant senior court judge to operate in their jurisdiction. Scotland has 39 sheriff courts located within 6 'sheriffdoms' (larger geographical districts). Judicial officers servicing such courts are known as Sheriff Officers, duly authorised to work throughout a sheriffdom or restricted to specific court districts. It is not uncommon for a judicial officer to be commissioned in several sheriffdoms but there is a separate, administrative process for each appointment. The supreme civil court in Scotland is the Court of Session, which deals with more complex and higher value claims. Judicial officers servicing this court are known as Messengers at Arms. They are authorised to work throughout Scotland without geographical limitation.
Spain	In Spain, a judicial office (<i>oficina judicial</i>) directed by a judicial officer provides support to the judiciary. It is organized with procedural units of direct support and common procedural services. The former provides direct support to courts in their functions. There is one procedural unit of direct support per court in which a judicial officer carries out her work. However, it might be the case that one judicial officer carries out activity in more than one procedural unit of direct support. The latter provides general procedural support to several courts in a given territory and is directed by a judicial officer.

2.4. Supervision and Control

A well-functioning monitoring and control system is necessary for an efficient and effective enforcement system. *“Enforcement agents should be honourable and competent in the performance of their duties and should act, at all times, according to recognised high professional and ethical standards. They should be unbiased in their dealings with the parties and be subject to professional scrutiny and monitoring which may include judicial control”*, as it is mentioned by the Council of Europe.⁴ The quality control of enforcement is carried out in all EU member states. Yet, the supervision differs, depending on the status of the enforcement agent. Where the enforcement agent is acting as a civil servant, the supervision, is normally carried out within the enforcement organization (either the Ministry of Justice or the court, such as Austria and Croatia). The enforcement agent, within the limitations based on law, as an exponent of the State, is vested with the power to perform certain activities of public interest.

With regard to self-employed enforcement agents, although their activities are not entrepreneurial, they are responsible to run the office. Society (i.e. State and parties) demand a guarantee that the self-employed enforcement agent acts with care, independence and integrity. Claimants, defendants and courts monitor closely their activities. Competition may influence the continuity of the office. Typical of this system is its organisation both internally, through the professional body (Chamber) and externally, in most countries, through the Ministry of Justice.

Enforcement activities are assessed on an ongoing basis. Control focuses on various aspects of the (organization of the) enforcement process: the respect of human rights of the parties, the performance of the enforcement agent, the effectiveness of the enforcement measures, the enforcement caseload and the costs of enforcement proceedings. More EU member states have introduced or are introducing, in line with international standards,⁵ specific quality standards. The supervision or control might result, when necessary in disciplinary sanctions (see the next paragraph).

Table 3: Exercise of control and supervision

Austria	The Internal Revision department (Higher Regional Court) is competent for internal revision. Judges and Jurisdiction Officers verify the legality of the enforcement measures. The “Steering Unit” for Bailiffs at the Higher Regional Court (“Leitungseinheit Gerichtsvollzug”) is the supervisory body that deals with complaints on misbehaviour of bailiffs in enforcement activities.
Belgium	The enforcement judge supervises enforcement. They must ensure compliance with the provisions on precautionary measures for seizure and enforcement. They may, even ex officio, be given a report on the state of the proceedings by the judicial officer. If they find negligence, they inform the public prosecutor who assesses the disciplinary facts.
Bulgaria	Private enforcement agents are licensed by the Minister of Justice and are subject of control by a dual administrative system. The State Inspectorate within the Ministry is the government controlling authority. The Ethical Commission and a Disciplinary Board within the Chamber of self-employed enforcement agents are the guild bodies in charge of monitoring, control and implementation of disciplinary measures.
Croatia	Supervision is exercised by the court. The court may revoke unlawful or irregular actions carried out by the enforcement administrator. Additionally, each judge is subject to the control of the State Judicial Committee, which evaluates judges, and decides on disciplinary proceedings against them. There is no direct responsibility of the enforcement administrators towards the Ministry of Justice, despite the need for Ministerial approval for new employments or promotions.

⁴ Rec 17/2003 under IV.4

⁵ CEPEJ 2009 Guidelines under 76

Cyprus	The Supreme Court and the Ministry of Justice control the statutory professional activities of the Judicial Officer, who is a public servant.
Czech Republic	The supervisory authorities include: the Ministry of Justice (through a specialised Control Section either <i>ex officio</i> or based on complaints or suggestions), the Chamber of Judicial Officers (the Controlling Commission, which can control offices and take remedial steps) and the president of a district court where the judicial officer is appointed <i>ex officio</i> (can carry out regular or extraordinary controls) or based on written suggestions of legal entities or natural persons.
Denmark	The activities of the judicial officer are subject to control by the Ministry of Justice and the Danish Bar Association. Control concerns all statutory professional activities, mistakes or abuses that could be perpetrated during their activities, unlawful practices, and excessive costs or fees. A statutory control is carried out every three years or more. A control can also be initiated on demand.
England and Wales	The Ministry of Justice provides control over enforcement. Laws and regulations govern the day-to-day activities of High Court Enforcement Officers, set the parameters for conduct, code of practice. They collect judicial statistics from each officer and collate these to give an overview of the effectiveness of enforcement.
Estonia	Supervision over the activities of enforcement officers is exercised by the Ministry of Justice. The Court of Honour of the Chamber of Enforcement Officers and Bankruptcy Trustees exercises supervision over the compliance with the Chamber's articles of association, decisions of the bodies and the Good Enforcement Practice. The person exercising supervision is authorised to check the compliance of the official activities of the enforcement officer with requirements.
Finland	National Enforcement Authority Finland's Central Administration is tasked with the administrative steering, development and oversight of the enforcement service. It resolves those complaints and claims for damages concerning the operations of the enforcement authorities that fall within its competence. The Head of Unit of each enforcement unit supervises the conformity of enforcement.
France	The Code of the Judicial Organisation provides that disputes arising from the enforcement of court decisions in civil matters are settled by the enforcement judge, present in each court. The judicial officer is under the control of the public prosecutor. The enforcement judge has the possibility of supervision during enforcement.
Germany	In addition to supervision by the enforcement court, the enforcement agent is subject to a special right of instruction by the district auditor, as costs are charged to the state treasury. Under civil service law, the enforcement agent is also subject to supervision.
Greece	The profession of the Judicial Officer is supervised by the Ministry of Justice and specifically by the Prosecutor at the Court of Appeals in each local Chamber. Every year the register books kept by Judicial Officers are inspected by the Prosecution Bureau or a Magistrate assigned for that purpose. The Board of each Chamber assumes competence either on its own initiative or after a written report submitted by any citizen, entity or Judicial Officer, to assign to one of its members to conduct an inquiry in order to ascertain evidence that justifies preliminary probe.
Hungary	The Office of the Association of Bailiffs acts independently in controlling the administration, office operation and conduct of bailiffs. At least 2 inspectors are assigned to conduct inspections. An inspector is a full-time or part-time employee of the Hungarian Bailiff's Association, who oversees the administration, office functions and conduct of independent judicial officers. Inspections are carried out in accordance with the Bailiffs Inspection Handbook. In the event of a serious or systematic violation of the law or of a violation of the Association's guidelines, the president judge of the general court or the head of the administrative department of the Association may order extraordinary investigations of the bailiff's activities. Some of the activities of the bailiffs may be subject to target examination on the basis of proposals made by the Minister in drawing up the annual control plan.
Ireland	If a judicial officer acts in breach of principles, their conduct may be adjudicated upon by the competent court. Further, there is a complaints procedure of the court's service, which would

	<p>be relevant to court messengers – but not sheriffs – who are employed by the court’s service. On the other hand, the sheriff and county registrar operate on a quasi-judicial basis. As such, any decision made on a quasi-judicial basis has to be appealed before the court. Nevertheless, where the line is between a quasi-judicial decision and not acting correctly in exercise of their duties the issue is not clear. Therefore, it is likely that either a complaint be made to the court’s service and or to the appropriate court.</p>
Italy	<p>According to the Bailiffs Order (Presidential Decree), the President of the Court of Appeal has disciplinary supervision over all bailiffs of the district. The Court president supervises all bailiffs of the local Court. The head of judicial officers supervises the judicial officers of the office. Magistrates with supervisory powers can contact the bailiff for slight negligence or irregularity of service to remind the observance of duties.</p>
Latvia	<p>Direct supervision of sworn judicial officers is in the jurisdiction of such regional court in the territory of operation of which the office is located. In addition, the Latvian Council of Judicial Officers supervises the activities of judicial officers. The Council of Latvian Judicial officers shall, at least once a year, ensure examination of books and execution files of each sworn judicial officer.</p>
Lithuania	<p>The lawfulness of the procedural actions undertaken by a judicial officer is controlled by the court. Other professional activities of judicial officers (work organisation, professional ethics, financial activities) are controlled by the Ministry of Justice and the Chamber of Judicial Officers of Lithuania according to the procedures prescribed by the legislation.</p>
Luxemburg	<p>Wrong doings of the judicial officer while carrying out their activities are controlled. Controls are firstly carried out by the National Chamber of Judicial Officers. In some cases, after a control has been done, the case can be transmitted to the public prosecutor.</p>
Malta	<p>The activities of judicial officers are not monitored or investigated unless an application is filed before the competent court.</p>
Netherlands	<p>In the Netherlands, supervision on compliance by the enforcement agent, the deputy enforcement agent, the assigned enforcement agent and the candidate enforcement agent is carried out by the Financial Supervision Bureau. Control is further carried out by the Chamber. The Dutch Chamber has developed a system of professional standards and developed for the control an assessment (audit) system. A formal review on compliance with the standards and best practice is conducted on a regular basis (every two years). Such an assessment is preventive. Not meeting the standards means that disciplinary proceedings will be initiated.</p>
Poland	<p>Supervision over enforcement agents includes judicial supervision, administrative supervision, and internal supervision of professional body. District courts issue orders ex officio to ensure proper enforcement and remove the observed deficiencies. The Minister of Justice supervises the activities of enforcement agents individually and through the presidents of competent district, regional and appellate courts, judges-inspectors and other persons. Financial supervision over enforcement agents’ activities is also exercised by the Minister of Justice through their subordinate services and authorized persons and institutions. The National Council, regional chambers and disciplinary spokesperson supervise enforcement agents regardless of the supervision exercised by the Minister of Justice and presidents of competent courts within disciplinary proceedings. The National Council acts through the President and the visiting enforcement agents in the form of office controls and document audit.</p>
Portugal	<p>The activity of the enforcement agents is controlled by the judge of the process, who verifies and monitors the activity of the enforcement agent, in particular with regard to the correct application of the law, diligence and possible abuse of power. Control is further done by the professional association Order of Solicitors and Enforcement Agents, the Public Prosecutor’s Office, or any person directly or indirectly affected also have legitimacy to inform the disciplinary entity, in case of facts or acts practiced by enforcement agents, which may constitute a disciplinary fault. The Commission for the Monitoring of Justice Assistants (CAAJ) is an independent public administrative entity, endowed with legal personality and enjoying administrative and financial autonomy. This Commission for the Monitoring of Justice Assistants (CAAJ) is responsible for monitoring, supervising and disciplining the assistants of</p>

	justice (including enforcement agents), in accordance with the law, the statutes and regulations of the professions that stipulate their involvement.
Romania	The procedure for controlling the activity of the judicial officers assumes various forms: (1) <i>disciplinary control</i> , when the judicial officer commits certain disciplinary violations, acts which violate professional duties, some prohibitions provided by law or rules of professional ethics and deontology. This type of control is exercised only by specially constituted authorities within the profession; (2) <i>administrative-professional control</i> , which involves a judgment on the technical, political, moral value of the behavior of the judicial officers subject to examination or expertise. This control may concern aspects related to the administrative organization of the judicial officers' office or the manner of fulfilling his/her professional duties and may be performed both by the authorities with self-control responsibilities established within the profession, and by the specialized inspectors within the Ministry of Justice; (3) <i>jurisdictional control</i> can be exercised only by authorities outside the profession, through the courts. This type of control concerns the effect of acts or enforcement measures performed by the judicial officers in the exercise of their professional duties.
Scotland	Although the officer is self-employed, or directly employed by a larger business, to operate in any jurisdiction, they must receive a personal commission from the most senior judge (Sheriff Principal) or Court of Session for a Messenger at Arms. Legislation has always been the primary source of control and oversight, effectively governing all aspects of the judicial officer's role and responsibility. The Court of Session (Scotland's supreme civil court) has the authority to create and bring into force, secondary legislation, known as an "Act of Sederunt" which tends to be more procedural and specific in nature, such as the regulation for fees payable to the judicial officer. Another important oversight function, is performed by the Society of Messenger at Arms and Sheriff Officers (Chamber), being the only statutory appointed, professional body for judicial officers. This controlling body has established a constitution, by-laws, and codes of conduct which every officer must adhere to. These detail how an officer should conduct themselves when dealing with the general public, clients and fellow officers of court.
Slovakia	The activities of executors are supervised primarily by the Slovak Chamber of Executors, which is a self-governing professional organization and which unites all judicial officers. The state supervision over the activities of the Chamber and the activities of executors is performed by the Ministry of Justice of the Slovak Republic, by monitoring compliance with the legality of executors' procedures in specific matters, regular and purposeful inspections of executors' offices and enforcement files and evaluation of Chamber reports on its activities and activities of executors. The control of enforcement activities is performed by the control commission, which consists of three executors authorized by the presidium of the Chamber and one representative of the Ministry.
Slovenia	Judicial officers are under the control of the Ministry of Justice, a president of a local court and the Chamber of Slovenian Bailiffs. The controls can be carried out at any time. The Minister of Justice supervises the activities of judicial officers <i>ex officio</i> (<i>sua sponte</i>) or at the proposal of the president of a local, district or higher court, the president of the Slovenian Chamber of Bailiffs, the prosecutor, the public prosecutor and a person having a legal interest. The president of the local court, who appointed a judicial officer in a particular enforcement matter, begins the supervision of the judicial officer's activities <i>ex officio</i> (<i>sua sponte</i>) or at the proposal of the Minister of Justice. The Slovenian Chamber of Bailiffs institutes supervision of judicial officers' activities <i>ex officio</i> (<i>sua sponte</i>) or at the proposal of the Minister of Justice or the president of the local court, which appointed the judicial officer in the particular enforcement matter.
Spain	The Government Secretaries are judicial officers appointed by the Justice Minister. Among other functions, they inspect the services of the judicial officers in their scope of action, direct and organize them, open procedures against judicial officers and impose certain sanctions. In addition, in each province there is one Regional Coordinator Secretary, appointed by the Justice Minister upon proposal by the relevant Government Secretary, who <i>inter alia</i> supervises the implementation of the Government Secretary's instructions, opens procedures

	against judicial officers and impose certain sanctions. They all depend on the General Secretary of the Justice Administration (<i>Secretario General de la Administración de Justicia</i>), in the Justice Minister.
Sweden	Taking into consideration the fact that the responsibility of enforcement is vested with the Enforcement Authority, the supervision is proceeded in the same way as with other public authorities in Sweden, that is by the Chancellor of Justice. The Chancellor of Justice is free to raise issues on the supervision of authorities of his or her own motion. The majority of cases are however initiated by private parties by means of submitting a written complaint, thus drawing the Chancellor's attention to malpractice or abuse of powers within the public administration.

2.5. Disciplinary Procedures and Sanctions

In line with international standards, enforcement agents alleged to have abused their position are subject to disciplinary, civil and/or criminal proceedings, providing appropriate sanctions where abuse has taken place.⁶ Yet, the organization of the disciplinary proceedings differs per country. In those countries with a civil servant enforcement system, disciplinary offenses often are considered within the hierarchic organization. In case the enforcement agent is self-employed, the disciplinary body is often an independent body, which is in line with international standards.⁷

Table 4: Disciplinary procedures and sanctions

Austria	Legal complaints from the debtor against the bailiff are dealt by the jurisdiction officer. Complaints concerning misbehaviour are dealt with by the president of the court or by the "Leitungseinheit" – Steering Unit, located at the Higher Regional Court ("Oberlandesgericht").
Belgium	There is a disciplinary commission within the jurisdiction of each court of appeal. It is competent to investigate complaints against judicial officers and candidate judicial officers from the districts within their jurisdiction. Each disciplinary commission is composed of four members, including a magistrate who chairs the commission, two judicial officers and an external member with relevant professional experience in the field.
Croatia	Any party or a participant to enforcement proceedings may request the court to remedy any irregularities made by the enforcement administrator in carrying out enforcement.
Cyprus	There are no rules specific for the judicial officer, nor a special disciplinary body.
Czech Republic	Disciplinary offences of judicial officers are dealt with by a specialised tribunal of the Supreme Administrative Court, which may impose simultaneously more than one disciplinary sanction.
Denmark	A special jurisdiction deals with the questions relating to the specific discipline of judicial officers. A body that is external to the profession oversees ruling disciplinary measures.
England and Wales	There are disciplinary sanctions for HCEOs who operate outside their scope. They are subject to the complaints procedure of the professional body. Breaches can incur up to a £15,000.00 fine, with the ultimate sanction of recommending their removal from office. The removal will be made by the Senior Master of the Queen's Bench Division of the High Court of Justice. The Ministry of Justice will also be included and notified of such a removal.
Estonia	The Minister of Justice and the Court of Honour have the right to impose a disciplinary penalty on an enforcement officer. The Court of Honour decides mainly complaints related to the non-performance or improper performance of duties arising from the resolutions of the Chamber of Enforcement Officers and Bankruptcy Trustees and the Good Enforcement Practice, complaints submitted against the activities of an enforcement officer or disciplinary cases, which have been referred by the Ministry of Justice.
Greece	The Code of Judicial Officers also includes a special chapter related to disciplinary matters. The Code of Judicial Officers provides two levels of Disciplinary Board. The first level is composed of the President of the Court of First Instance, the District Court Prosecutor and the general secretary of the local Chamber of Judicial Officers. The second level is composed

⁶ Rec 17/2003 under IV.6

⁷ CEPEJ 2009 Guidelines under 81

	of the President of the Court of Appeals, the Prosecutor of the Court of Appeals and the president of the local Chamber of Judicial Officers.
Hungary	The disciplinary cases of persons under arraignment shall be heard by the disciplinary tribunal of court bailiffs. The Court Bailiff Disciplinary Tribunal attached to the Budapest General Court of Greater Metropolitan Budapest functions as the disciplinary tribunal of the first instance. The Bírósági Végrehajtói Fegyelmi Bíróság attached to the Curia shall function as the disciplinary tribunal of second instance. The Association's Executive Board shall delegate twenty bailiffs to the disciplinary tribunal of first instance, and three bailiffs to the disciplinary tribunal of second instance to serve as investigating officers for four-year terms.
Ireland	There are no formal ethical rules relating to disciplinary proceedings against judicial officers. However, the sheriffs in Dublin and Cork are solicitors and officers of the court. As such, they have a general duty to act correctly in their duties and to act in accordance with the proper administration of the law. The same applies to court messengers, who are deemed to be officers of the court. Should a judicial officer not comply with their duties as an officer of the court, in particular in relation to honesty, the matter could be brought to the attention of the President of the High Court, who could adjudicate in relation to such matters.
Italy	Bailiffs are subject to provisions that regulate the disciplinary proceedings for civil servants.
Lithuania	All disciplinary proceedings against judicial officers are heard by the Judicial Officers' Court of Honour. The Judicial Officers' Court of Honour consists of five members, of whom two are elected at a judicial officers' meeting, two are appointed by the Minister of Justice and one is appointed by the President of the Supreme Court of Lithuania. The Judicial Officers' Court of Honour consists of judicial officers only. Judicial officers can appeal against the decisions of the Judicial Officers' Court of Honour (and the disciplinary penalty) to Vilnius Regional Court.
Luxemburg	Common competent jurisdictions deal with questions relating to the discipline of judicial officers. The rules are specific to the profession. A judicial officer can challenge the disciplinary sanction pronounced against him/her. The time limit for appeal is one month after the court decision has been notified.
Malta	There are rules relating to disciplinary action against judicial officers under Maltese law. There is no jurisdiction specialised in dealing with questions relating to the discipline of judicial officers. Rules for instituting disciplinary proceedings against judicial officers apply to all law professionals. The Courts of Malta, as a mixed body, are responsible for disciplining judicial officers. The judicial officer can challenge the disciplinary sanction pronounced against him/her before the Court of Appeal.
Netherlands	The Disciplinary Commission examines the disciplinary cases on first instance. The Commission is comprised of five members and ten deputy members, three members (and six deputy members) who are appointed by the Minister of Justice out of members of the judiciary and two members (and four deputy members) who are enforcement agents. A panel of the Disciplinary Commission consists of at least two members from the judiciary (including the President) and one member who is an enforcement agent. The Minister of Justice appoints the President of the Chamber, who is a judge. The parties have the right to appeal against the decisions of the Disciplinary Commission before the Higher Disciplinary Court. The Regional Court in Amsterdam acts as this higher disciplinary court.
Poland	Disciplinary proceedings take place before the Disciplinary Commission, composed of enforcement agents. An appeal may be lodged before the appellate court.
Portugal	The disciplinary structure of the professional association, Order of Solicitors and Enforcement Agents and the Commission for the Monitoring of Justice Assistants (CAAJ) are the competent disciplinary entities.
Romania	The judicial officer has disciplinary liability for a violations regulated by law. The disciplinary action is exercised by the Minister of Justice or by the Board of Directors of the Chamber of Judicial Officers and is judged by its Disciplinary Council, consisting of 3 members elected by the General Assembly of the Chamber of Judicial Officers for a 3 year-period. If the Minister of Justice exercises disciplinary action, he/she may notify the Board of Directors of the Chamber in the event that disciplinary violations are found during the professional control performed by specialized inspectors. If disciplinary action is exercised by the Board of

	Directors of the Chamber of Judicial Officers, it may act on its own initiative or be notified by the Council of the National Union of Judicial Enforcement Officers through its president or his/her replacement. The parties can appeal against the judgment within 15 days from the communication, to the Superior Disciplinary Commission of the National Union of Judicial Enforcement Officers, composed of elected representatives of the chambers.
Scotland	If any person is concerned or dissatisfied with an officer's conduct, they are able to make a formal complaint. Complaints can be made to the firm which employs the officer concerned, which will be fully considered and ideally quickly resolved. Failing which, they can also lodge a complaint with the Chamber, which will attempt to resolve the issue internally, failing which referring the matter to a higher authority, typically the relevant Sheriff Principle or Court of Session, dependent on the jurisdiction.
Slovenia	There is a specialized competence of the Minister of Justice on questions of discipline of judicial officers. The Minister of Justice can initiate disciplinary proceedings against a judicial officer on their own motion (<i>sua sponte</i>) or on proposal of the Slovenian Chamber of Bailiffs, a president of the district court, a president of the local court, a president of the higher court and the parties to the enforcement proceedings in which the judicial officer performed the enforcement acts. The judicial officer can challenge the disciplinary sanction by filing an appeal against the decision of the Minister of Justice, which will be decided by the disciplinary commission of the Slovenian Chamber of Bailiffs. The judicial officer can lodge an action against the decision of the disciplinary commission before the administrative court.
Spain	There is a disciplinary regime for judicial officers established in the Regulation of Judicial Officers. The sanctions it establishes are compatible with criminal liability, where appropriate. These sanctions are imposed by the Government Secretary and Regional Coordinator Secretary (both hierarchical superiors of the judicial officers), for warnings, and the Justice Minister, for forced relocation, suspension and dismissal.
Sweden	Damages could be awarded in case of erroneous decisions taken by the Enforcement Authority that have a negative impact on a party. Damages will be decided by the Chancellor of Justice (Justitiekanslern – an independent body that supervises authorities and civil servants).

2.6. Access to the premises

Austria	Debtor must be informed in advance. In absence of the debtor doors can be opened in the presence of two adult witnesses
Belgium	The judicial officer may put a guard in front of the door(s) and will address the police commissioner without further formalities. The person whom the judicial officer addressed or the delegated person or the person who replaces them shall be present at the opening of the doors. This person will sign the report of the judicial officer (article 1504 of the Judicial Code).
Bulgaria	The law grants explicit authority to an enforcement agent to conduct a forced entry and search into the debtor's premises whenever the enforcement agent deems it to be justified under the procedural rules. When the debtor's premises are entered by force, the enforcement agent is entitled to police assistance.
Croatia	Two adult witnesses or a notary public have to be present at enforcement actions in the debtor's residence when the debtor, his or her legal representative, proxy or an adult member of his or her household are not present.
Cyprus	The Judicial Officer is allowed to enter the locked premises only by allowance from the Court to do so.
Czech Republic	The judicial officer is entitled to force entry into the place where the inventory of movable assets is to be made, even by overcoming any resistance from the part of the debtor. The judicial officer or his/her employee is obliged to make a written protocol and an audio-video recording of the course of inspection of the apartment and other rooms and the surroundings, (i.e., the common corridor, entry gate into the garden, information provided by neighbours, etc.).

Denmark	The judicial officer can enter the premises where neither the debtor nor a (legal) representative is present, with court allowance. When the enforcement action is to be conducted in locked premises, whilst the debtor is not present or does not agree to open them, the judicial officer can enter such premises in the presence of a police officer, with court allowance.
England and Wales	The regulations require a High Court Enforcement Officer to send an Enforcement Notice to the debtor at the address stated on the writ of control. There must be 7 clear days before an attendance is made. If there is no response to the enforcement notice, the High Court Enforcement Officer or their assistant will attend the premises directed on the Writ of Control.
Estonia	Without the debtor's consent, the enforcement officer may enter rooms or access land in the debtor's possession and search these only on the basis of a warrant issued by the court. The court may issue a warrant even where the debtor has not prohibited the enforcement officer from entering the rooms and accessing the land in their possession and searching these. The enforcement officer has the right to invite two adults, a representative of the local authority or a police officer to witness an enforcement act.
Finland	When searching for distrainable assets, the enforcement officer has the right to have doors and locks opened, as well as to enter residential properties, storage rooms and other comparable places and use other comparable forcible measures providing this can be deemed justified in view of the circumstances.
France	If the debtor is absent or refuses access, he can enter, provided that he is accompanied by the mayor of the municipality, a municipal councillor, a police officer or, if this is not possible, of two adult witnesses who are neither at the service of the creditor nor of the judicial officer.
Germany	As a rule, the enforcement agent shall not open the apartment by force until he/she has given the debtor written notice of this. It is up to the creditor to obtain a judicial search order. The search warrant is issued by the judge of the district court in whose district the search is to take place. Without a judicial order, the enforcement agent may only search the debtor's home if the delay in obtaining such an order in advance would jeopardise the success of the search. The enforcement agent must call two adults or a municipal or police officer as witnesses if in case of an enforcement measure, neither the debtor himself/herself nor an adult member of his/her family or employed by his/her family is present in the debtor's home.
Greece	If a Judicial Officer is handling an enforceable title, he/she is allowed to enter the premises even if the debtor or a representative of the debtor is absent. For that reason, he/she should be escorted by two adult witnesses or another Judicial Officer. The presence of the Police Authority is not compulsory, but the Judicial Officer has the right to request their assistance if necessary and they are obligated to provide it.
Hungary	If necessary, the judicial officer may open the judgment debtor's locked residence, other place of dwelling, the entrance leading thereto, as well as the judgment debtor's furniture and other movable property. If such process is not attended by the judgment debtor or his/her family member of legal age, a witness shall be summoned.
Ireland	If the debtor is not present, the judicial officer cannot make reasonable efforts to enter peacefully. Therefore, if the judicial officer forced entry without the debtor being present, such entry would be illegal. In addition, such entry would be in breach of the Constitution of Ireland section 40.5, according to which no one can force entry to a person's dwelling house unless in accordance with the law. There is an issue of whether section 12 is in breach of the Constitution of Ireland. Under section 12, a judicial officer can force entry to premises of a third party if he/she believes that goods belonging to the debtor are present there.
Northern Ireland	According to article 133/ 1981 Order, a constable, at the written request of the EJO, will render all reasonable assistance in the performance of enforcement.
Italy	According to law, once the judicial officer has an executive title and the procedure relating to legal notifications and notices is respected, he/she has the power to enter the premises even when the debtor is absent and without his/her permission. The bailiff may, according to the circumstances, request assistance of the public force when necessary.
Latvia	A judicial officer is entitled, where it is necessary to carry out enforcement, to carry out inspection of the premises or storage-places of a debtor. If the debtor does not participate in

	the inspection of such premises or storage-places, it shall be carried out in the presence of invited persons. If a person refuses to allow access for a judicial officer at the place of location of the movable property, the judicial officer shall invite a representative of the police for ensuring public order at the presence of whom the room or storage facility shall be opened and seizing shall be carried out.
Lithuania	If the debtor refuses to participate or avoids doing so, the judicial officer may access the premises without the presence of the debtor or his/her representative, but with the presence of a police officer and witnesses (adults with legal capacity and with no interest in the proceedings). If the judicial officer is not permitted to access residential premises, he/she must obtain a court order to access them (unless it refers to an eviction or other cases which cannot be enforced if the judicial officer does not access the premises). The judicial officer shall be entitled to access non-residential premises without a court order but must do so with the presence of a police officer and witnesses.
Luxemburg	If premises are locked, the debtor or any other person is absent or if the debtor refuses entrance, the judicial officer has to request and appeal a judicial police officer. In presence of a police officer, and if needed a locksmith, the judicial officer accesses the debtor's premises.
Malta	The judicial officer is not allowed to enter the premises where neither the debtor nor a (legal) representative are present. The judicial officer is neither allowed to enter a premise where the enforcement action is to be conducted in premises which are locked, whilst the debtor is not present or does not agree to open the premises.
Netherlands	In case premises are locked, or the debtor refuses cooperation, Dutch enforcement agents have the power to decide to enter the defendants' premises. Guidance in such matters is governed by the principle of proportionality. The Dutch enforcement agents are only allowed to enter the premises of the enforcement debtor when accompanied by the mayor or a substitute public prosecutor who replaces the mayor.
Poland	The forced opening of the debtor's premises, which in practice means the locks being rebounded by a locksmith, and entry inside do not require a separate decision of a court or other authority. In the absence of the debtor or his/her household members the forced opening should be done in the presence of police officers. The powers of enforcement agents in this respect result directly from the provisions of law and the enforceable title.
Portugal	In the exercise of enforcement, the enforcement agent may require access to closed spaces, including if the debtor or his/her representative are not present or even proceed by forced entry by break-in of doors. In accordance with the current legislation and regulations, when opposed to the seizure or entry into a closed place or property, the enforcement agent may directly request the assistance of the police or the public security authorities to force the entry or the practice of the act. Prior judicial authorization is mandatory if the act must be performed in the debtor's residence.
Scotland	Relevant legislation allows a judicial officer to enter premises and to also force access where no person is present. No notice is required to be given to the debtor prior to executing an attachment; however, where the judicial officer is executing an exceptional attachment, there are strict rules as to when a judicial officer can enter the premises. Whilst executing an exceptional attachment order, the judicial officer can only access the premises without giving prior notice, if a person over the age of 16 is present and they are able to understand the proceedings. If no one is present at the first visit, or where someone is present who does not meet the criteria set, the judicial officer must give a minimum of 4 days' notice prior to entering a debtor's home, to execute an exceptional attachment order. At this stage the judicial officer would be able to force access if no one is present. An application could be made to the sheriff (local court judge) to allow access without giving notice, however this decision is made by the sheriff based upon the facts provided to them.
Slovakia	If required by the purpose of the enforcement, the executor is entitled to make a personal inspection of the debtor and an inspection of the debtor's apartment and other places where the debtor has his/her property; for this purpose, he/she is entitled to obtain access to the debtor's apartment or to another place of the debtor. In the event that the debtor does not allow access to these places voluntarily, the executor will enforce access and for this purpose

	the body of the Police Force of the Slovak Republic is obliged to provide co-operation and protection.
Slovenia	In Slovenia a judicial officer is allowed to enter the debtor's home (apartment, house) in the presence of two adult witnesses, where neither the debtor nor a (legal) representative nor an adult member of his/her household is present. Where enforcement has to be carried out at the premises of a legal entity, the judicial officer shall, prior to commencing enforcement actions, invite the legal representative of the legal entity to immediately designate the person who will be present in the actions. If the legal representative is not at the premises of the legal entity or does not designate a person to be present, the enforcement measures in the premises shall be carried out at the presence of two adult citizens. When the enforcement action is to be conducted in a premise that is locked, whilst the debtor is not present or does not agree to open it, the judicial officer is allowed to enter the premises with court allowance and in the presence of two adult witnesses.
Spain	The judicial officer is in charge of the enforcement with the only exception of those powers allocated to the judge. In the enforcement activity, the judicial officer may enter the premises with the help of the public enforcement authorities, if necessary because e.g., a person is obstructing the enforcement action.
Sweden	If the debtor is absent and there is a child/children at the premises, access should be interrupted and planned for another date. Exceptions to this rule are possible if the execution officer has plausible reasons to believe that the debtor is avoiding the Enforcement Authority or if access to the premises is a matter of urgency for some reason.

2.7. Obstructing the enforcement agent from carrying out enforcement

Austria	The bailiff may request assistance from the police without prior consultation with the judge/jurisdiction officer. If the debtor refuses to provide an asset statement, the bailiff may immediately and compulsively refer the debtor to the judge/jurisdiction officer for the submission of the statement of assets without any further judicial mandate. In case of further refusal, the judge may impose detention on the debtor. ⁸
Belgium	The judicial officer will address the police commissioner without further formalities. According to the Belgian Chamber of Judicial Officers, if the judicial officer fears serious resistance from the debtor the public authority can intervene as a preventive measure ⁹ .
Bulgaria	The police authorities must, upon request, assist the officer if the performance of his/her functions is obstructed. According to art. 270, para 1 of the Criminal Code, obstruction of an enforcement agent's duties is a felony charge, punishable by imprisonment.
Croatia	The enforcement administrator is authorized to remove any person obstructing the enforcement. Depending on the circumstances of each case, the enforcement administrator is also entitled to request the assistance of the police, who are supposed to act in accordance with the order of the enforcement administrator.
Cyprus	The judicial officer is only entitled to remove a person with police assistance and guidance from the court.
Czech Republic	Overcoming any resistance of the debtor or taking a person out of the place of enforcement, or forcing access to the property, etc., is never done by the judicial officer. In such case, the agent must request in advance (or in the course of enforcement) the assistance or help of the Police of the Czech Republic (who, under the Police Act, are always obliged to provide protection to the judicial officer upon his/her request).
Denmark	The judicial officer is authorised to remove a person from the place where an enforcement action is taking place, if such person obstructs its commission, but only through police

⁸ § 48 Executionsordnung

⁹ Regarding the difficulties of access encountered by the judicial officer see G. De Leval, « La saisie exécution mobilière », T.P.R.1986, 318-319.

	assistance, which have a duty to provide the enforcement body with the appropriate assistance for the implementation of enforcement actions.
England and Wales	In practical terms, the High Court Enforcement Officer even though having powers of arrest, will require the assistance of the police. Arresting a person who is obstructing an officer of the court in the execution of their duty, is the last resort. The High Court Enforcement Officer and their assistants can use reasonable force to remove the person from the area covered by a Writ of Possession.
Estonia	Police officers are required to provide the enforcement officer with proper assistance and the enforcement officer has the right to have an enforcement-obstructing person removed from the enforcement act.
Finland	The bailiff is entitled to receive official assistance from the police, if the bailiff meets with resistance intended to prevent the enforcement or to cause considerable difficulty therein. When meeting with resistance, the bailiff is also entitled to use such forcible measures to counter the resistance as can be deemed justified in view of the nature of the enforcement task, the dangerousness of the resistance and the situation in general. The Criminal Code of Finland contains provisions on excessive forcible measures.
France	In case of difficulty, the judicial officer can refer to the enforcement judge. The Criminal Code punishes anyone who poses violent resistance to a person having public authority while carrying out his/her duties, at the occasion of the enforcement of court decisions.
Germany	If the enforcement agent faces resistance, he/she may use force and request police assistance for this purpose. To enforce his/her powers, the enforcement agent may use direct coercion against the debtor; in doing so, he/she may also make use of the administrative assistance of the police. The enforcement agent must call two adults or a municipal or police officer as witnesses to an enforcement action if there is resistance to an enforcement measure.
Greece	If resistance is met during the enforcement, the Judicial Officer has the right to use violence as defense and at the same time call the Police or Port Authority for the restoration of the order. The Judicial Officer during the enforcement must always be accompanied by two adult witnesses or another Judicial Officer, especially if resistance is alleged or threatened or if there is no one present at the location where the enforcement is going to take place.
Hungary	In case of any resistance against the bailiff's actions, the bailiff shall inform the person resisting as to the procedure applicable in the event of resistance and on the ensuing consequences and shall contact directly the nearest local police precinct of jurisdiction to carry out routine police duties, which shall lend immediate assistance for the enforcement procedure in order to end such resistance, and shall remain to do so until the procedure is completed.
Ireland	Any person obstructing a judicial officer in the legitimate exercise of his/her duties can be removed in practice by police officers, as per The Enforcement of Court Orders Act 1926.
Northern Ireland	Any person who obstructs or impedes an enforcement officer in the performance of his/her duties or impersonates an enforcement officer is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both such imprisonment and such fine.
Italy	The judicial officer can overcome the resistance of anyone who impedes execution with the support of the public force. According to law, anyone who, requested by a public official in the exercise of his/her functions, refuses to give indications on his/her personal identity, on his/her state, or on other personal qualities, is punished with a sentence of up to one month or a fine of up to two hundred six euros. According to law, refusal to provide information necessary to identify the debtor's assets may lead to a sanction by the criminal court, in case of omission or false declaration, providing imprisonment of up to three years and a fine from € 103 to 1,032 euros.
Latvia	If, when a judgment is being enforced, resistance is shown, a judicial officer shall, in the presence of invited persons, but if it is not possible to invite persons - singly, draw up a statement thereon, and in order to eliminate hindrances apply for assistance to the police. The statement shall be submitted to the court for it to decide on the issue regarding the liability of those persons who have resisted the enforcement of the judgment.

Lithuania	If the judicial officer is obstructed from carrying out enforcement, obstructions may be eliminated with the help of the police. The police must provide the necessary assistance to the judicial officer in carrying out enforcement and eliminating the obstructions.
Malta	The judicial officer is not authorised to remove a person from the place where enforcement action is taking place. Police bodies have a duty to provide the enforcement body with the appropriate assistance for commission of enforcement actions.
Netherlands	The enforcement agent is authorized to remove a person from the place where an enforcement action is taking place, with assistance of the police, if such person obstructs its commission. In that respect, police have a duty to provide the enforcement agent with the appropriate assistance for the commission of enforcement actions.
Poland	The application of coercive measures often involves the need to perform activities in the presence of police officers. And this, in turn, is associated with the fact that enforcement costs - incurred, as a rule, by the debtor - can increase significantly. A fixed fee of 25% of the average monthly salary shall be charged for all activities involving the Police, Military Police, military law enforcement agencies, the Border Guard and the Internal Security Agency requested by the enforcement agents while performing enforcement activities. The application of the coercive measures ¹⁰ is a "last resort". This means that unnecessary resistance, which is the basis for calling for help from the Police - not only will unnecessarily lengthen the activities but will also add costs for the debtor to pay.
Portugal	Intentional lack of collaboration with justice can entail civil and even criminal penalties. Lack of collaboration includes obstruction, omission of useful data or information or even lack of truth. As mentioned above, in the performance of his/her duties, the enforcement agent may require cooperation, access to information, access to enclosed spaces, proceed forced entry where necessary and may directly request the assistance of police or public security entities for that purpose. In certain types or specific proceedings or acts, the enforcement agent may even order the removal of persons and property from the location. If cooperation with the enforcement agent is not carried out on a voluntary basis, the enforcement agent must always request the assistance of the police or public security authorities, for compulsive compliance.
Romania	The state is directly responsible for the way in which the enforcement procedure is carried out. The New Criminal Code regulates that the offense against a judicial officer is assimilated to the act which reveals the threat perpetrated directly or by means of direct communication, hitting or other acts of violence, bodily harm, beatings or injuries causing death or murder perpetrated against a public servant holding an office which involves the exercise of state authority, who is in office or in relation to the exercise of such office. This act will be sanctioned with the penalty provided by law for that offense, and the special limits of the penalty shall be increased by one third. Moreover, the New Civil Procedure Code also regulates certain situations regarding some measures in case of opposition to enforcement. If the judicial officer is challenged in the execution of an enforcement act, at his/her request, the police, military police force and other law enforcement agents are obligated to ensure the effective execution of the enforcement activity, including by his/her or any other person's removal from the place of enforcement. Time of enforcement.
Scotland	It is relatively uncommon for a judicial officer to be physically confronted and prevented from carrying out their duties. However, given the nature of their official function, they do occasionally come across an individual, who may be the debtor, a family member or other third party, who attempts to obstruct the due process of the law. In case there is a clear threat of violence or physical obstruction, then the officer will withdraw and seek police assistance. There is another, ancient and less well-known process, known as "deforcement". This offence specifically relates to the obstruction of a judicial officer in the course of their lawful duty. To the best of our knowledge, there has been no instances in recent years when this legal process has been applied. That said, we understand that a judge could still impose a lengthy prison sentence, if they deemed it appropriate to use the legal remedy for obstructing a judicial officer.

¹⁰ Article 814 CCP.

Slovakia	Protection to persons authorized to enforce a decision of a court or other public authority is provided by the Police Force, if these persons are unable to enforce the decision due to danger to life or health and if they request this protection in writing. These persons also include the judicial officer. For the sake of protection of a judicial officer as well as achieving the purpose of enforcement, the executor has the status of a public official in connection with the performance of enforceable activities. The law also emphasizes that the enforceable activity is the exercise of public power. He/she has increased protection against possible attacks or other inappropriate behaviour (e.g., threats) by the debtors through the Criminal Code, when the debtor could, through his/her actions; commit the crime of assaulting a public authority ¹¹ or assaulting a public official.
Slovenia	The judicial officer is authorized to remove a person from the place where an enforcement action is taking place, if such person obstructs its commission. Moreover, when performing enforcement actions, the judicial officer may, depending on the circumstances of the case, request the presence and assistance of the police, if he/she encounters resistance or threat or if he/she reasonably expects it. Police costs are part of the enforcement costs.
Sweden	If the judicial officer is obstructed from carrying out enforcement, obstructions may be eliminated with the help of the police. According to the law the executive officer may ask for the removal of the debtor or of any other party that obstructs access to the premises or in any other way behaves in an improper way. In cases prescribed by legislation, the police must provide the necessary assistance to the judicial officer in carrying out enforcement and eliminating the obstructions. The party that obstructs access to the premises may be charged with fines.

2.8. Time of enforcement

	Normal times	During the night	Saturday, Sunday, Public holidays
Austria	6:00 – 22:00	In case of urgency or if enforcement cannot be achieved otherwise	Yes, In case of urgency or if enforcement cannot be achieved otherwise
Belgium	6:00 – 21:00	Based on the authorization of the judge only	Based on the authorization of the judge only
Bulgaria	Bulgarian legislation does not provide certain time and day frame during which enforcement agents are authorized to carry out enforcement.		
Croatia	During daytime	With approval of the court	With approval of the court
Cyprus	between sunrise and sunset		
Czech Republic	6:00 – 22:00		
Denmark	During working days	With approval of the court	With approval of the court
England and Wales	6:00 – 21:00	With approval of the court	Enforcement is allowed any day. Exception: enforcement and possession of land or buildings. In such case special court order is necessary to enforce on Sunday
Estonia	During working days	only in unavoidable circumstances	only in unavoidable circumstances
Finland	Enforcement is to be conducted in accordance with the requirement for expediency		
France	6:00 – 21:00	With approval of the enforcement judge	With approval of the enforcement judge

¹¹ Sec. 321 et seq. of Act No. 300/2005 Coll. Criminal Code.

Germany	6:00 – 21:00	With approval of the district court	With approval of the district court
Hungary	6:00 – 22:00	With approval of the president judge	With approval of the president judge
Ireland	There are no time restrictions for enforcement, but, generally, it would be expected that enforcement would take place during business hours and not on a weekend.		
Italy	7:00 – 21:00	With approval of the court	With approval of the court
Latvia	6:00 – 0:00	Only in case of emergency	Only in case of emergency
Lithuania	6:00 – 22:00	Only in case of emergency	Only in case of emergency
Luxemburg	6:30 – 20:00	With approval of the district court	With approval of the district court
Malta	During working days	With approval of the court	With approval of the court
Netherlands	07:00 – 20:00	With approval of the district court	With approval of the district court
Poland	07:00 – 21:00	With approval of the president of the district court	With approval of the president of the district court
Portugal	07:00 – 21:00	With approval of the judge of the case	With approval of the judge of the case
Romania	6:00 – 20:00	With approval of the enforcement court	With approval of the enforcement court
Scotland	8:00 – 20:00	With approval of the Sheriff (local court judge)	With approval of the Sheriff (local court judge)
Slovenia	6:00 – 22:00	Only in case of emergency	Only in case of emergency
Spain	8:00 – 22:00	Only in case of emergency	Only in case of emergency
Sweden	6:00 – 21:00	Only in case of emergency	Only in case of emergency

2.9. Mediation

Austria	During the enforcement process, the bailiff may enter into agreements with the debtor in respect of payments in instalments. They may ask the creditor to declare that the claim is open, in order to ensure that the claim (including all fees and sub-claims) is paid completely by the debtor. The bailiff may mediate an agreement between the claimant and the debtor on a case-by-case basis. However, mediation is not a mandatory task for the bailiff.
Belgium	The law of 21 February 2005 generalizes the use of mediation. For both voluntary mediation (outside of court proceedings) and judicial mediation, (within the framework of judicial proceedings), the parties will choose a mediator approved by the Federal Mediation Commission, who may be a judicial officer.
Bulgaria	There is no regulatory emphasis on mediation as far as enforcement agent professional duties are concerned. In practice, however it is an important venue for streamlining the enforcement process as well as for achieving effective enforcement placing rights and interests of both parties in balance. The PEA is bound by both practical and ethical considerations to employ a mediation approach.
Croatia	Mediation is possible between the creditor and the debtor, as it would have been during any other court proceedings, but without direct relevance to the enforcement.
Cyprus	The Judicial Officer is a public servant, and he/she cannot exert the activity of mediation.
Czech Republic	In the Czech Republic it is impossible to use mediation or to reach compromise before the start of the enforcement actions in the course of the enforcement procedure. After ordering enforcement, it is possible to refer to the “voluntary fulfilment of the debtor's obligation” only in cases where the debtor fulfils the enforced obligations within 30 days after the service of the request.

Denmark	The judicial officer can exert the activity of mediation which remains minor. He/she must follow a special training to exert this activity personally, at pre-judicial level (before court actions) as well as during trial.
England and Wales	There is no provision for the judicial officer to use a soft approach such as mediation. In practice the judicial officer attends to obtain a number of outcomes from the debtor which may include a stage payment agreement and (by some enforcement officers) other services such as amicable debt recovery.
Estonia	The enforcement procedure does not allow the enforcement officer to conclude agreements between the claimant and the debtor. In enforcement proceedings, the enforcement officer can offer the debtor the option to submit a payment proposal, but it is up to the claimant to decide whether to accept the proposal.
Finland	The enforcement authorities are neutral and protect the rights of both debtors and creditors. According to the requirement of appropriateness, included in the Enforcement Code, the bailiff has to promote the self-initiative of the respondent and conciliation between the parties in a manner appropriate to an enforcement matter. National Enforcement Authority Finland provides no mediation services, however.
France	The judicial officer can be a mediator as an additional activity. During a mediation process, he/she may also provide for all provisional measures to preserve the interests of the creditor with the agreement of the debtor.
Germany	Mediation by enforcement agents is not foreseen. The enforcement agent can only try to reach an amicable settlement with the debtor (payment by instalments).
Greece	Judicial Officers do not exert the activity of mediation.
Hungary	The judicial officer cannot exercise the activity of mediation.
Ireland	Formal mediation is not applied. However, by the nature of their job, judicial officers would engage in some form of verbal mediation with the debtor, which may involve engaging to obtain a payment proposal.
Northern Ireland	Mediation is not mentioned as such. Yet, legislation enables the enforcement officer to agree with payment in instalments in case it appears that a debtor has or will have the means to satisfy by instalments within a reasonable time. In addition, also several enforcement procedures can be postponed in case the enforcement officer considers that the claim could be paid voluntarily.
Italy	The judicial officer does not have the power to arrange an agreement with the debtor in order to delay payment or suspend the enforcement. In practice, it is possible to suspend the enforcement with the claimant's consent, to foster potential agreements. There is no mandatory post judicial mediation, and the judicial officers are not involved in this matter. In practice, judicial officers promote agreement between the parties anyway. There is no form of soft enforcement used by the judicial officers. Judicial officers can be appointed as mediators and registered in the mediator register. To exercise as mediators, they must be authorized by the Ministry of Justice for each procedure.
Latvia	Mediation is an official activity performed by a judicial officer at the request of an interested party. According to Latvian regulatory enactments, a judicial officer has the right to conduct mediation as a certified mediator in accordance with the procedures specified in the Mediation Law. It should be noted that mediation is not part of the enforcement process and or as an additional means of enforcement, but a separate act performed by a judicial officer at the request of an interested party.
Lithuania	The judicial officer may provide mediation services when resolving disputes. To be able to provide mediation services, judicial officers must receive the necessary training and must be included in the list of mediators (and pass the mediator qualification examination if the judicial officer does not have 3 years of experience working as a judicial officer). In practice, judicial officers rarely provide mediation services. Mediation in the enforcement procedure is not mandatory in any case.
Luxemburg	The law does not forbid judicial officers to exert the activity of mediation, however in practice this activity is non-existent among the activities exerted by judicial officers.
Malta	Judicial officers cannot conduct mediation.

Netherlands	Dutch enforcement agents are allowed to be active in mediation, both pre-judicial mediation (before court proceedings) and post-judicial mediation. During the initial training attention is paid to several mediation related skills (e.g., conflict handling). There is no separate accreditation or authorization to exert mediation though.
Poland	The Polish enforcement agent is not empowered to act as a mediator. The Polish legislator believes that enforcement procedure cannot be combined with mediation activity. Therefore, mediation activity should not be carried out by the same entity. According to a general rule, the enforcement agent may act only on the basis of the enforceable title. He/she is not allowed to use any soft-enforcement measures.
Portugal	The enforcement agent is prohibited by law from carrying out any mediation in the enforcement procedure. Any agreement shall always be made by the parties or their judicial representatives if they are established. In enforcement procedures there can only be a simple agreement between the parties, there is never any mediation involved.
Romania	The law does not allocate concrete provisions regarding the role of the judicial officer in the matter of mediation. The only prescriptions that would fall within the scope of this activity concern the attempt at conciliation, when objections were formulated regarding the distribution of the amounts resulted from the forced execution and registered in the Distribution Project. Further, the judicial officers in Romania cannot perform, in concrete terms, the mediation activity.
Scotland	Dependent on the nature of the relationship and terms of the instruction from the creditor to the judicial officer, then there may well be an opportunity for the judicial officer to act as a mediator, by consulting with all interested parties and negotiating an amicable solution.
Slovakia	The executor does not perform this activity; moreover, this activity is incompatible with the performance of executor's function.
Slovenia	In Slovenia, judicial officers cannot exert the activity of mediation. However, they may (during the enforcement) make some arrangements with the debtor, where there is a consensus between the creditor and the debtor.
Spain	Judicial officers exert mediation and conciliation activity, notably in the case of labour law matters at a pre-judicial level.
Sweden	The Enforcement Authority provides no mediation services. However, agreements between the creditor and debtor are encouraged. Such agreements will lead to the settlement of claims (monetary or others) and to the closure of the enforcement proceedings.

Chapter III: Enforcement procedure

3.1 Initiation and end of the enforcement procedure

The legal systems of the member states demonstrate a number of similarities and divergences in the initiation and closure of the enforcement procedure. This concerns the person or authority who can initiate enforcement, the documents on the basis of which enforcement is initiated, the choice of enforcement measures and the conclusion of the enforcement procedure.

The **initiation of enforcement** requires an enforceable decision. In most member states, initiation requires *an application to the court, accompanied by an enforceable decision*. In Poland, enforcement can commence with a motion submitted either to the competent court or the enforcement agent by the creditor. In Croatia, enforcement can be filed by the creditor either with the court, if based on a directly enforceable title, or with the notary public if based on a trust-worthy document. In Cyprus, England and Wales, Northern Ireland, Denmark, and Spain, enforcement commences with an *application to the court*. In Northern Ireland the notice of intent to apply for enforcement, followed by payment of fees and application to the Office for enforcement, suffices. In Greece, an *enforcement title with exequatur* is required. In Romania, the enforcement procedure starts with the registration of the request for enforcement with the judicial officer, but they must and obtain a *court statement* from the enforcement court. In Scotland, the enforcement proceedings commence with a petition and an *extract decree* by the court. In 8 enforcement systems, enforcement procedures are initiated by *petition to the judicial officer*.

Enforcement procedures, once initiated, usually leave room for voluntary compliance. Specific timeframes might or might not be in place. For example, in Italy enforcement can take place 10 days after serving of the ‘precetto’ (writ of execution). In Latvia, the debtor is given a term of 10 days to pay the debt and the costs of enforcement of the judgment with a reduced remuneration ratio. In the Netherlands, 2 days are given for voluntarily fulfilment, while in Belgium, for enforcement on immovables the waiting period extends to 15 days.

Enforcement procedures are terminated with the recovery of the claim. Alternative reasons for termination include suspension, declaration of the insolvency of the debtor, etc. For example, in Croatia, the process can be terminated through recovery of the claim and payment to the creditor; suspension by the enforcement court or the judicial officer; exclusion or change of the judicial officer or if the judicial officer loses the authority to hold office. In Estonia, the enforcement officer terminates the enforcement proceedings on the application of the claimant; proof of settlement of claim; a court decision; a document certifying a security required for prevention of enforcement; if the claim or obligation is non-transferable to heirs or legal successors; groundless commencement of the enforcement proceedings; submission of proof that an enforceable title has been annulled; etc. In Germany, the creditor determines the beginning, the type and the extent of the enforcement process.

The initiation and termination of enforcement proceedings is becoming increasingly digitised, although solutions vary significantly between member states. Electronic applications to initiate the process are possible in 6 countries (Portugal, England and Wales, Finland, Germany, Poland and Slovakia), while in some of them it is obligatorily electronic. For example, in Portugal, the enforcement application, is compulsorily submitted electronically through the CITIUS platform to which only judicial representatives have access. Digital options, where available, appear to concern mainly enforcement agents or other professionals and not citizens.

3.2. Enforcement against movable assets

Attachment against movable assets involves four main steps: the attachment process; the inventory; the valuation or assessment process and the sale or auction of the goods. Some countries, like Belgium or Luxembourg, emphasise the need for rapidity and simplicity in this process.

The attachment process on movables can begin with the enforcement title or with the explicit approval by the court, depending on the system. For example, in Belgium, the service of the enforceable title and the payment order to the debtor are sufficient. In Estonia an enforcement notice needs to be serviced to the debtor. In other countries however, more control is exercised before the procedure is initiated. Indicatively, in Spain, a resolution of the court and a decree of the judicial officer are required for attachment proceedings to be legal. In the Czech Republic, an authorisation from the enforcement court is required. In Denmark the court decides on the enforcement proposal.

The inventory records the possessions of the debtor. Inventories are in principle compiled by the judicial officer with the presence of the parties or witnesses. Exceptions are also in place. For example, in Slovakia, the judicial officer can entrust the task to the debtor with a written authorisation. In Estonia, the presence of the debtor, representative or adult family member is required during the inventoring of assets or, alternatively, two witnesses or a police officer. In Belgium, the presence of a witness is required. In Denmark, non-attendance by the parties does not obstruct the process.

Inventories list the items in possession of the debtor. These can include items that can be sold (Slovakia, Czech Republic), items subject to registration or not (Portugal), the items that are visually identifiable by the enforcement agent (the Netherlands). Photographs can be used in some countries (Italy, Latvia) to ensure that items will not be replaced afterwards. The inventory is included in a report (Italy, Greece, Hungary, Estonia, Bulgaria, Belgium, Austria), that is served to the debtor and, subject to objections, defines the assets that can sold to satisfy pecuniary claims. Limitations with regard to what can be included in the inventory are in place in all countries. In principle these exclude items which are necessary to maintain a standard of living of the debtor. In Finland, household effects or tools are not retained. In Cyprus these include clothing, furniture and household equipment. In Germany it is an ex officio obligation of the judicial officer to observe the attachment restrictions and the limits of enforcement action provided for in the law.

In principle, movables found in the possession of the debtor are assumed to be in their ownership. Third parties have the right to claim belongings and these claims are noted in the inventory report (see for example Croatia, Denmark). In some countries (Italy, Luxembourg, Malta, Portugal) the third party has to prove ownership before the court. Goods can remain with the debtor (Belgium, Poland) or be sequestrated and handed over to a custodian (all countries). This is usually a decision the judicial officer has to make (for example Ireland, Italy, Spain).

Valuation involves the assessment of the monetary value of the movables in the inventory. The valuation is performed by the judicial officer (indicatively, see Italy, Latvia) using as reference market prices or where required with the assistance of an expert (Italy, Latvia, Lithuania). In the Netherlands the seized goods are not valued. Re-valuation is possible in most cases (see for example Slovenia).

The sale or auction of the movable goods is their liquidation. In this last step of the attachment of movables, possibilities include online auctions (Austria, England and Wales, Estonia, Finland, Germany, Greece, Hungary, Latvia, Lithuania, the Netherlands, Poland), on site auctions (Germany, Hungary, Luxembourg), discretionary sale (Finland), free hand sale (Austria), public sale (Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, England, France, Italy, Malta, Portugal, Scotland, Slovakia, Slovenia, Spain, Sweden), direct sale (Slovenia, Portugal), amicable sale (France), sale through a retail establishment (Bulgaria, Italy) or via a commodity market (Bulgaria, Spain), open auction via direct bidding (Bulgaria), sale by proposals in closed letter (Portugal), sale by negotiated procedure (Portugal) or sale agreed between parties (Spain). There is a vast variety of practices with regard to sale and auctions with a tendency towards e-auctions. The completion of the sale and the distribution of proceeds concludes the procedures for enforcement of movable goods.

3.3. Bank accounts

With the attachment of bank accounts the creditor attempts to satisfy their claim by accessing accounts held by a third party, a bank or financial institution, which belong to the debtor. This procedure, which is reportedly common in the effort to recover assets, raises a number of challenges from the perspective of enforcement in particular in relation to the access to information on bank accounts and the protection of personal and banking data; protection of the involvement of third parties; effects and limitations to the attachment on bank accounts.

The actor that plays the leading role in the attachment of bank accounts depends on the overall organisation of the enforcement system. In the majority of countries, the enforcement agents have the mandate to initiate and conduct the process for attachment of bank accounts, when an enforceable title is in place. In the second solution (Ireland, England, Malta) the attachment of bank accounts is either not conducted by the enforcement agent or requires the intervention of the courts. For example, in Slovenia only the enforcement court can attach bank account and conducts the entire process, while in Ireland, England, Malta, Romania an (enforcement) court decision is required in order to proceed to attachment of bank accounts.

A key issue in this process, given personal data protection regulations, relates to the access to information on bank accounts of the debtor. In Austria, it is sufficient to know the bank where the debtor holds a bank account (AU). In countries like Cyprus or Denmark, specific bank account numbers have to be indicated. Banks are obliged to respond, but not to disclose more information than that requested. In a number of countries, enforcement agents do not have access to information on the debtors bank accounts (MT, GR). Information can be retrieved either from the debtor, like in Germany, where information is commissioned from the debtor upon oath (DE), through the banks or through databases. Banks are obliged to respond and provide information on account numbers, balance etc (SK). Sweden introduces a requirement of proportionality to the information that banks are obliged to provide to the enforcement agent. In countries like Italy and Lithuania, the enforcement agent has full access to information on the bank accounts of the debtor.

Attachment of bank accounts involves a procedure of notification of the claim to the bank. In Luxembourg, this procedure includes the service of the writ of attachment to the bank, the notification of the attachment to the debtor, the notification of the notification to the debtor to the bank. In other countries, including Romania, Portugal or Poland, the writ and the enforceable decision need to be communicated to the bank.

The procedure results in the freezing or blocking of the bank account. There are limitations to the amounts that can be seized. All countries specify minimum amounts that cannot be seized and are associated with ensuring a decent standard of living for the debtor, amounts from benefits or associated with maintenance obligations among others (CZ, FR, GR, HU, NL, PL, SK). The amounts from the seized bank accounts are either transferred to the enforcement agent (NL, PT), the creditor directly, the Enforcement Authorities (Sweden) or the enforcement courts.

The procedure of attachment on bank accounts is conducted online in a small number of countries (LV, SK), both online or through 'traditional' procedures (NL) while few countries persist with hard copy exchange of documents (MT).

3.4. Attachment against savings deposits and current accounts

In most countries, the procedure for attachment of savings accounts is the same with that for current accounts. Differences are noted in Germany and Slovakia where the savings book or certificate is required in order to proceed with the attachment.

3.5. Enforcement on immovable property

The enforcement of immovable property presents different challenges compared to the enforcement of movables or bank accounts. For one matter, property is registered in cadastres so property transfers are subject to strict publicity rules. For another matter, the transfer of immovable property may raise complexity in particular in cases of undivided ownership.

Differences are noted in the actors involved in the enforcement of immovable property. As already noted, in some countries (CY, DK, GR, MT, SL) courts have the main role by singlehandedly conducting the process or by authorising or maintaining a close supervision on it. In some cases the enforcement court cooperates with auctioneers or lawyers (IE) or directly with the parties (IT). In a second set of countries, the enforcement agent is the actor who drives the process (CZ, EE, LT, PL, ES, PT) either on their own, in joint action with the enforcement court (FR, LV) or in cooperation with notaries who conduct the auction (LUX, NL). In England, an Authorised High Court enforcement officer and Lawyer can conduct this process, in Finland the district Bailiff and in Sweden the Enforcement authority.

Overall, although the procedural steps vary between countries, a common feature are the strict requirements for publicity of the process and the updating on public records on land and immovables both before and after the sale. Less differences are observed in the need for valuation of the property and the execution of the sale. An interesting feature observed in a small number of countries are requirements to attempt a conciliation (BE) or the possibility to organise meeting of parties before the auction (EE). These procedures may suggest an interesting trend towards more amicable and consensual solutions.

The valuation of the property aims to establish the adequacy of the property's value to satisfy the claim of the creditor and to determine the starting sale price. Valuation is dealt differently by member states with more or less flexibility. In most countries, expert evaluators are involved (AT, CY, CZ, DK, HU, LT, MT, PL, PT, EE) in some cases licensed or certified appraisers (LV, BG, GR) or real estate agents (England). In other countries, expert assessments need to be endorsed by the court (IT, SL). The value of the property can also be determined by agreement of the parties (EE).

The sale of the property can be conducted via a public sale, auction or e-auction (CY, CZ, EE, PL, SE, IT, GR, England, PT, LV). Alternatives include sale via a real estate agent or online (England), amicable sale (FR, HU), private sale (GR), direct agreement (Ireland, LT, MT, IT, PT, SL, ES), sale by closed letter, sale by negotiation, sale in auction establishment (PT, ES) or written bids (SL).

3.6. Enforcement against wages or permanent pecuniary income

Enforcement against wages or permanent pecuniary income is a very common procedure for the recovery of debts. The possibility for enforcement against wages is in place in all member states and concerns any enforceable debt. In Denmark it applies only for debts against public authorities (DK).

This type of enforcement applies against wages and income in the wide sense. All countries allow a broad understanding of what is included in this concept. Most commonly it includes regular income, wages, salaries, income from contracts or bonuses or any form of remuneration and periodic payments. Some types of income are excluded. These include benefits and allowances, maintenance etc.

This procedure of enforcement against wages is driven by jurisdiction officers (Austria), enforcement agents (CZ, GR, LV, LT, NL, PL, RO, SK), the courts (HU, LUX, SL), the creditor through the court (IE), a qualified lawyer or Authorised High court enforcement officer and lawyer (England and Wales), the EJO (NI) and the enforcement authority in Sweden. The employer has an important role in this type of enforcement as the party that disposes information on the income of the debtor and can seize wages or withhold specific amounts. In several countries, the employer is obliged to provide information on whether the debtor is an employee and on their wages (AT, MT, PL), to accept the attachment and

payment, to respond with a declaration of income (Lux). In Latvia, a fine can be imposed by the court if they do not comply with the obligation to provide information (LT). In the Netherlands, this obligation burdens not only employers but also public authorities (NL). Denmark is the only country where the employer is not obliged to provide information (DK). In another group of countries, information on wages can be retrieved online through tax and customs databases (EE), State Revenue Service and State Social Insurance Agency (LV), Social insurance agency (SK). In Slovenia and Portugal information is available online but upon request of the court the employer is obliged to respond (SL).

Beyond the obligation to provide information, the employer has to retain advances (AT), to stop paying wages and deduct the foreseen amounts from the wage of the debtor (LV) and transfer these to the enforcement agent (NL) or to the court (FR). In Estonia, upon receipt of the seizure report, the employer is obliged to notify the termination of the employment relationship (EE). On many occasions failure to comply with these obligations might lead to the liability of the employer (EE) or fines, while in other counties this is explicitly excluded.

Enforcement against wages takes place through a notification of order (AT), an attachment notice to employer or national social security institute for pensions (BG), an enforcement order (CZ, LT), an attachment on Earnings order issued by the court (Eng), an Advance notice and a withholding notice (FI), an Earnings withholding order (HU, LV), an Earnings arrestment, current maintenance arrestment or conjoined arrestment order which is served by the judicial officer to debtors employer (Scotland), an attachment of earnings order (NI) and a notice to parties (SK). In France, prior to the attachment document a conciliation hearing is obligatorily held by the enforcement court (FR). In Luxembourg, the attachment of earnings is issued from the court, it is followed by a notice of order and a formal declaration from the employer (LUX). In the Netherlands, the procedures includes the attachment order on periodic income, its notification to the parties, a statement, notification to the debtor and leads to the deduction of the related amounts and their distribution by the enforcement agent (NL).

The most important safeguard, which is common in all legal orders, are the limitations applicable to the sequestrable income and the amounts of the wages that can be deducted. This serves the obvious purpose of guaranteeing some minimum resources required for the subsistence of the debtor before deducting the amounts to serve debts. The first type of limitations excludes family allowances, social benefits, unemployment benefits from the sources of income that can be seized (all countries). The second type of limitation includes restrictions to the amount of wages that can be seized. For example in Estonia, the seized income cannot exceed the minimum salary, in Finland only 1/6th can be garnished (FI), in Malta no salary and benefits below 700€ (MT). Additional rights include, for instance, the right to 2 free months per year and the right to interruption after a year (FI) or the right to claim a grace period of 2 year before the enforcement judge (FR).

3.7. Attachment under the debtors' debtor

Attachment under the debtors' debtor allows the creditor to assert their rights by substituting their debtor by third parties (debtors' debtor) who have debts to them. The procedure is similar to procedures described above involving third parties. In Belgium three conditions should be met in order for this procedure to be applicable: a) the claim needs to be certain and eligible, b) the debtor inactive and c) the creditor must have an interest in acting (BE). Some countries explicitly provide for this case, while others allow the analogous application of the provisions on the attachment of bank accounts or wages (FR, GR, IT, LUX, NL).

This procedure falls within the competence of the jurisdiction officer (AT), private enforcement agents (BG), the court (CY, DK, IE, SL), enforcement agents (CZ, LV, ES and several others), a solicitor/lawyer (England) or enforcement authorities where these are in place (SE). The other parties (debtors' debtor) can include any party against which the creditors debtor has an outstanding claim.

Information on outstanding debts is either accessed through the debtor or the debtors' debtor (see indicatively AT). In Poland, the enforcement agent can impose a fine for failure to comply with the obligation to provide information (PL). A second source includes public databases (eg revenue, tax or registries) to which enforcement agents have access. A third source are public authorities which are under an obligation to disclose relevant information to the enforcement agent (Indicatively, LV, LT, ES). Last but not least, any other sources that can offer reliable information can be used, including stakeholders (see indicatively PL).

The procedure follows largely the steps for attachment under third parties, starting with the notification of enforcement order or attachment notice or seizure report to the debtors' debtor, acceptance from the third party, the provision of information and the transfer of the amount to the creditor, the court or the enforcement agent (see indicatively AT, BG, DK, EE, HU). In Bulgaria, there is the possibility to award the claim instead of the payment (BG). In Finland, the debtors' debtor is obliged to pay when the claim is due or the enforcement agent can seize (FI). In England, the procedure requires an application to court without notice, an interim order serviced to the third party, a hearing and a final order serviced to the third party.

The debtors' debtor has the right to object or appeal against the process (AT, CY, DK) and the enforcement agents' actions (LT). In the Czech Republic, if the debtor fails or refuses, the creditor can seek payment in the form of garnishee action. In Hungary, if the third party fails to pay, the creditor may file for legal action against them. In Latvia, if the notice of the enforcement agent is not respected, a fine can be imposed by the court. In the Czech Republic there are statutory limits to the attachment on claims of individual entrepreneurs (CZ).

3.8. Enforcement against shares

Shares are also goods that can be subjected to enforcement. In most countries, this is a relatively recent addition to the possibilities for enforcement. In their majority, shares are dealt with in the same way as movables or when not in the custody of the debtor under the third party attachment procedure. In Austria, shares are not subject to attachment restrictions. In Belgium, the absence of consistent regulation is reported to make the attachment of shares problematic. In Bulgaria, it is not considered to be an effective process. Similarly, in Poland, it is reported to be time consuming and complicated/.

3.9. Enforcement of other property rights

Other property rights which form part of the debtors' assets can be the subject of enforcement. In several countries there are not explicitly regulated, for example in Belgium. Enforcement of other property rights might include shares in immovable and movable property, entitlement of rescission of joint property, rights in companies, cooperatives, businesses, tenancy rights, contents of safe deposit boxes, patent rights, copyrights (AU), business shares or membership in cooperative, patents, industrial designs and trademarks, administration of immovable assets, enterprise, suspension of driver's license (CZ), land motor vehicles or goods locked in safes (FR), mortgages and land charges (DE), electronic money, right to inherit, land lease right (LT), common property, communion or ownership, good against successors of debtor, assets loaded on a ship, commercial establishments, agricultural production (PT), business shares (SK). The procedures follow or closely resemble those on the attachment of movables, immovables and attachments in the hands of third parties.

3.10. Enforcement in reinstatement of employee to work

The reinstatement of an employee to work is a procedures that does not clearly fall within the scope of enforcement measures and procedures. In Austria, Belgium, Czech Republic, Estonia, Finland, Greece, Hungary, Northern Ireland, Italy, Luxembourg, Malta, the Netherlands, Slovakia and Sweden this is not possible and no related procedures are in place. In other countries, reinstatement is possible

but outside the field of enforcement, mainly as part of labour law (BG, CY, England, France, Germany, Ireland, Latvia, Lithuania, Poland, Portugal, Slovenia, Spain).

3.11. Eviction

Eviction concerns the removal of a tenant from premises belonging to the owner. It is a procedure with important impact on the life of the evictee and is usually subject to more stringent requirements for its initiation. In the majority of countries, evictions need to be decided by the court (Austria, Belgium, Cyprus, Denmark, E &W, Finland, Hungary, Ireland, Estonia, Lithuania, Luxemburg, Malta, Portugal, Slovenia, Spain and Sweden). In Greece, beyond a court decision a sale through auction can be used as a basis for eviction and in the Netherlands a mortgage deed. In Italy, it needs to be an enforceable title.

Divergence is noted in limitations to eviction or protection against it. In Austria, protections against enforcement do not apply to evictions, while in Bulgaria their applicability depends on the grounds for eviction. IN Portugal, suspension is possible by the enforcement agent if a medical certificate is available proving impact on the evictee (PT). In the Czech Republic, if the court decision makes eviction dependent upon the provision of adequate substitute accommodation, the creditor has to prove that this has been found. Other limitations for eviction might concern the months of winter or risk of homelessness (AT), specific dates during the winter months (1st nove-31 March - PL), specific dates and holidays (GR), Sundays, holidays and earlier than 8am and later than 8pm (Scotland). Other countries do not provide specific limitations for the winter months (BE, LUX).

No special measures are reported in relation to the eviction of minors living in the property (DK, EE, SL). In Finland, if children are in the premises social and welfare services have to be notified. In Sweden, the welfare authority is notified in case of eviction.

Eviction requires a formal notification and allows room for the evictee to comply voluntarily. The deadlines to this purpose differ between 1-3 months (for example BG, 3 months EE, LV).

3.12. Enforcement of obligations to act, refrain from acting or suffer action

In some cases, judicial decisions oblige the debtor to undertake specific acts or refrain from specific actions or behaviors. The actions to be performed or refrained from are decided by the court but the enforcement officer has the responsibility to enforce them. In these cases, the enforcement officer verifies the performance or non-performance of the required acts, or whether the debtor has abstained from the required behavior. In some countries they have the possibility to impose fines. for non-compliance or inform the court to impose fines.

3.13. Sequestration of goods

Sequestration is the voluntary, judicial or legal deposit of assets, movable and immovable in the hands of a third party. The appointment of a custodian or a sequester is possible in all states. The enforcement agent is either responsible to deposit an asset with a third party or identify a suitable custodian (for example, Estonia, Spain) or can perform this role themselves (indicatively Belgium, France, Germany, Lithuania, Slovenia). In Poland, the enforcement agent cannot be the caretaker of seized goods. In England and Wales this can only be performed by a Official Receiver or Trustee, in Latvia this is not performed by an enforcement agent. Sequestration is verified in a report (the Netherlands) and the sequester is entitled to financial compensation (the Netherlands)

Chapter IV: Enforcement of foreign enforceable documents from Non EU States

The recognition and enforcement of judicial acts, decrees of courts and/or arbitration authorities with authoritative jurisdiction (hereinafter "an act of foreign jurisdiction") in accordance with the respective state's legislation as well as other enforceable documents from non-EU States in EU member states are subject to a separate procedure stipulated by the law of the country of enforcement. According to such law, the judgments of foreign courts and other authorities are eligible for recognition and enforcement when they meet certain requirements. To summarize, in general, following requirements need to be met:

- The foreign court or competent authority exercises jurisdiction by the standards of the law of the country in which the foreign judgment needs to be enforced. The sole fact of nationality (or registered domicile) of the plaintiff in disputes *in rem* does not by itself justify jurisdiction.
- The defendant's entitlement to due process and legal defense has been warranted by proper service of the civil action, all parties have been duly summoned, and fundamental standards of defense in accordance with the law of the country in which the foreign judgment needs to be enforced have not been breached.
- No *res judicata* in the form of a judgment of a court of the country in which the foreign judgment needs to be enforced, based on the same claim exists. In same line of logic, no eligibility of recognition would exist if proceedings based on the same facts, the same cause of action, and involving the same parties, are initiated in a court of the country in which the foreign judgment needs to be enforced prior to the filing in the foreign court, which issued the act whose recognition (or enforcement) is sought.
- A general eligibility standard of compliance with the "public order" (the criterion of public morals rooted in the national legal tradition and its implementation) of the country in which the foreign judgment needs to be enforced is also a statutory consideration for the recognition of a foreign judgment.

Should the act of foreign jurisdiction comply with these standards, it shall be processed for recognition. Should the conditions of recognition be disputed, a civil action to assert said conditions may be brought to the competent Court. The court reviews and verifies the compliance with all due standards. The court shall not re-examine the merits of the disputed matter resolved by the foreign court.

Table 5: Enforcement of foreign enforceable documents from Non EU States - procedures

	Exequatur	Translation	Competent court	Appeal	Remarks
Austria	Yes	German	District court	High Court of Appeal	The authorisation for enforcement follows immediately after the procedure to verify the enforceability of the foreign document
Belgium	Yes		President court of first instance		
Bulgaria	Yes		Sofia City court		The filing must include a copy of the foreign enforcement and/or protective act, authenticated by the issuing court and a certificate thereof that the act has entered into force. An authentication via a certificate by the Bulgarian Ministry of Foreign Affairs must also be accomplished.
Croatia	Yes		Croatian municipal and commercial courts of first instance	Courts of appeal	The intervention of a lawyer is not compulsory in the proceedings for the recognition.
Cyprus	Yes		District court		The registration and enforcement of a foreign judgment under a multilateral or bilateral agreement is undertaken by the Ministry of Justice and Public Order, as the central authority, through the Law Office of the Republic of Cyprus. In other cases, the procedure may be carried out through lawyers.
Denmark	Yes		Enforcement court		The intervention of a lawyer/solicitor is compulsory in the proceedings for recognition, depending on the country of origin, the amount of the debt, and the type of case.
England and Wales	See remark				Foreign judgments falling outside of the reciprocal agreements (Lugano Convention, Hague 2005 Choice of Courts Convention or Administration of Justice Act 1920 or Foreign Judgments (Reciprocal Enforcement) Act 1933, will be enforced under common law. This is achieved by bringing a new action in the English and Welsh courts, with the non-EU judgment becoming the foundation of the action. At that point, the judgment is treated as a contractual debt and new proceedings are therefore issued in the court system for payment of that 'debt'.
Estonia	Yes	Estonian by a sworn translator	Court of domicile debtor		An application for declaring a foreign court judgment enforceable must be accompanied by: 1) a copy of the court decision authenticated in accordance with the law of the country of location of the court that made the decision; 2) a document certifying that the claim, summons or another proceedings-initiating document had been served on the defendant or another debtor specified in the decision in accordance with the law of the country; 3) a document certifying that, according to the law of the country where the decision was made, the decision has become final and enforceable and been communicated to the defendant or another debtor specified in the decision; 4) documents on the enforcement of the decision where the decision has already been enforced; 5) translations of the documents into Estonian, which have been made by a sworn translator

Finland	Yes				
France	Yes		Territorial competent court		
Germany	Yes		local or regional court in whose district the debtor resides		The competent court decides on the admission of the foreign title by an enforcement order in which the title is admitted for enforcement in Germany. However, this is only possible if the foreign title has become final and if it has also been declared enforceable in the country of origin.
Greece	Yes		First instance court		
Hungary	Yes				
Ireland	Yes		High court		A document would need to be issued initiating the proceedings before the judge in charge of the process for the recognition of a court decision from a non-EU state. A lawyer can be employed to achieve recognition. The litigant can also apply in person, although this would be very unusual. The intervention of a lawyer is necessary if the recognition decision is contested.
Northern Ireland					Foreign judgments falling outside of the reciprocal agreements (Lugano Convention, Hague 2005 Choice of Courts Convention or Administration of Justice Act 1920 or Foreign Judgments (Reciprocal Enforcement) Act 1933, will be enforced under common law. This is achieved by bringing a new action in the English and Welsh courts, with the non-EU judgment becoming the foundation of the action. At that point, the judgment is treated as a contractual debt and new proceedings are therefore issued in the court system for payment of that 'debt'.
Italy	See remark				The recognition and execution of judgments issued by judges from third countries are regulated by Law no. 218/95, which provides, <i>as a general rule</i> , automatic recognition of decisions that respect basic requirements of compatibility with the Italian legal system, without the need for any procedure. In order for it to be approved by the competent Court of Appeal by territory, and therefore to become enforceable in Italy, the third country judgement must be final, duly legalized, if necessary, by an Italian consular representation or by a public official through apostille (in the case of countries signatories to the Hague Convention of 5 October 1961).
Latvia	Yes		district (city) court based on the place of enforcement		
Lithuania	Yes		Court of Appeal		
Luxemburg	Yes				The intervention of a lawyer is always compulsory.
Malta	Yes		First instance court		The intervention of a lawyer/solicitor is compulsory.
Netherlands	Yes		court where the defendant has domicile	Court of appeal	In case a judgment is rendered in a state with which no treaty has been signed, the general rule is that the case will need to be re-litigated (article 431 CPC) in order to obtain a judgment from a Dutch court.
Poland	Yes	Polish	regional court of residence or registered office of the debtor	Court of appeal	
Portugal	Yes				

Romania	Yes		Enforcement court		
Scotland	Yes				Foreign judgments falling outside of the reciprocal agreements (Lugano Convention, Hague 2005 Choice of Courts Convention or Administration of Justice Act 1920 or Foreign Judgments (Reciprocal Enforcement) Act 1933, will be enforced under common law. This is achieved by bringing a new action in the English and Welsh courts, with the non-EU judgment becoming the foundation of the action. At that point, the judgment is treated as a contractual debt and new proceedings are therefore issued in the court system for payment of that 'debt'.
Slovakia	Yes	Slovak			
Slovenia	Yes		First instance court		The intervention of a lawyer is not compulsory in the recognition proceedings.
Spain	Yes		First instance court		
Sweden	Yes		Swedish District court		

Chapter V: Enforcement costs

5.1. Basic principles

To safeguard equal access to justice and predictability, enforcement fees are fixed in all member states. The development of regulatory pricing, mandatory for all judicial officers, is instituted in order to meet two imperatives:

- Firstly, to avoid arbitrariness and to ensure the protection of the interests of the parties: both the party who has to pay in advance fees, costs and disbursements (claimant) and the party who is ordered to pay and bear the costs of enforcement (debtor).
- Secondly, it ensures equity and stability in the remuneration for the (enforcement) actions as performed by the judicial officer. This is considered an essential condition to safeguard the dignity and impartiality of the judicial officer. The payment of the fixed fees must provide the self-employed judicial officer with sufficient financial means to cover all their needs, the more since any other activities are prohibited. Thus, remuneration must ensure the independence and impartiality of the judicial officer.

With regard to the enforcement agent as a civil servant, fees are, in most countries, payed into the State budget. Enforcement fees only cover part of the overall expenses of the enforcement system. Yet there are exceptions. For example, in *Austria* the flat fees cover all necessary steps (except of bailiff's fees, mortgage fees, and prepayments for valuation and storage) within the entire enforcement proceeding. Usually, this flat fee has to be paid in advance. However, financial coverage of the activities of bailiffs in the enforcement procedure is not included in the flat fee for enforcement. The bailiff receives remuneration for the acts carried out and compensation for their travel costs, as well as remuneration for successful intervention – especially for the debtor's payment. Another exception is *Northern Ireland*. The enforcement of judgments system in Northern Ireland is funded by fees paid by its users. The fees are of public order, which implies that:

- The fee is mandatory both as a maximum and as a minimum.
- Any price-arrangements with (third) parties are strictly prohibited.

An exception are the *Netherlands*. Netherlands has a system of fixed fees. This system applies to the costs payable by the debtor for the official duties of the enforcement agent. In case of unsuccessful enforcement, the enforcement costs need to be paid by the creditor. In the relationship between the enforcement agent and the creditor, the fees are negotiable. When the fee system was introduced (2001) the Dutch legislator intended to stimulate market working (competition) among enforcement agents. Negotiable fees with the creditors fit in such policy.

5.2. International standards

International standards pay considerable attention to a fair, transparent and clear system of fees. The structure of fees and rewards is mostly regulated by law and (the tariffs) by bylaw or regulation. There is a similarity in the fee structure of most EU member states:

1. Fee for the administration of the case (filing fee)

Depending on the value of the case, a fee for the administration of the case is charged. The fee is mostly paid by the creditor before the enforcement activity, to be later reimbursed by the debtor.

2. Fee on enforcement activities

This fee relates to the activities that enforcement agents may charge for their activities in enforcing a case. In a lot of member states such fees are fixed. The fee is mostly paid by the creditor before the enforcement activity, to be later reimbursed by the debtor.

3. Fee on efficiency of enforcement performance (performance fee)

This fee depends on the efficiency of the enforcement performance. The performance fee is often charged as a fixed fee within certain ranges or based upon the percentage of the value enforced. Ranges are provided depending on the value enforced. The higher the value of the cases, the lower the percentage charged by the enforcement agents. The enforcement agent will get this fee from the either the creditor or debtor after successful completion of the enforcement case.

There are exceptions regarding the charging of this fee, especially in countries with a court or civil servant-based enforcement system. For example, in *Croatia and Malta*, a judicial officer is not entitled to receive a so called „extra remuneration“, depending on the success of the enforcement or the urgency of an enforcement case.

Though the exceptions mainly refer to the countries with a court or civil servant based enforcement system, one country with a self-employed enforcement system needs to be mentioned. In *Poland*, since 1 January 2019, the enforcement fee is a tax-free budget payment of a public law nature and remains no longer the private income of enforcement agents. Enforcement agents are entitled to a commission fee, based on the amount of fees received in a given month. The new system is supposed to be an incentive for enforcement agents to work more effectively. Since 1 January 2020, the enforcement agents are not subject to VAT tax, since they are strictly public bodies according to their new status.

5.3. Enforcement costs, legal aid and exceptions

In general, enforcement costs must be paid by the debtor as part of the enforcement decision. In principle, the creditor bears the risk of enforcement in all cases where the enforcement itself fails to be fruitful. Yet, the majority of the member States provide for exceptions to this rule, especially when it comes to financial vulnerable creditors.

For example, in *Austria* exceptions are provided for legal aid cases, fees for minors recovering their maintenance and in case the enforcement application fees are based on labour law jurisdiction up to a value of EUR 2.500. In *Finland*, no advance can be demanded if the applicant is a natural person and the costs can probably be covered by the accrued assets. In *Ireland*, it is possible in certain circumstances for a creditor to be exempted from the prepayment of the enforcement fees. A creditor can apply for legal aid, but this involves a means test and legal aid is much more likely to be granted to a debtor. Another example is Latvia, where certain creditors are exempted from advance payment of fees in case of claims on the recovery of remuneration for work and other claims of employees, claims arising from personal injuries that result in mutilation or other damage to health, or the death of a person, cases when the recovery must be carried out for the benefit of a victim - natural person - in relation to a satisfied application for compensation of harm in a criminal case, claims on the recovery of child maintenance or parent support, cases where enforcement in State revenue is to be performed, cases where the person is released from the payment of court expenses by a court decision, certain cases where the recovery must be carried out according to the uniform instrument permitting enforcement in the receiving Member State.

In *Lithuania*, depending on the financial situation of the creditor (natural person), the judicial officer may release him or her from payment of enforcement costs in whole or in part or postpone payment of enforcement costs. The judicial officer must exempt the natural person receiving social assistance from paying the necessary enforcement costs or postpone the payment of these enforcement costs for at least 30 days, during which these persons must apply to a special state body - the State

Guaranteed Legal Aid Service - for secondary legal aid to pay the necessary enforcement costs. The judicial officer may, in whole or in part, exempt from enforcement costs or defer payment of enforcement costs for a legal person which submits an enforcement document issued in a civil case in which that legal person has been fully or partially exempted from the payment of stamp duty to the court.

In *Slovenia*, a creditor can be exempt from the prepayment of the court fee for filing the enforcement proposal (initial fee) and can be exempted from the prepayment of the enforcement fees, if he/she applies for legal aid for his/her enforcement case.

An exception is *Denmark*, where a creditor cannot apply for legal aid for enforcement cases and nor can be exempted from the prepayment of enforcement fees.

5.4. The regulation of costs

In all member states, the law prescribes the fees. In most countries, the level of such fees is worked out in more detail in secondary legislation.

5.5. Transparency of fees

Transparency of enforcement costs means that the fees should be made public. This is a task, not only by the enforcement agent, but also by the courts, consumer organizations, procedural codes or via the official Internet sites of the judicial and professional authorities. Transparency of enforcement fees also includes clarity of the fees: simple, clear and as concisely as possible, taking into consideration certain factors such as the amount of the debt, any particular urgency of the case and the difficulties that the enforcement agent is likely to encounter.

One may question if this is the case in all member states. For example, in a number of countries the calculation of expenses depends on a large number of factors: simply, clearly and concisely as possible, taking into consideration certain factors such as the amount of the debt, any particular urgency of the case and the difficulties that the enforcement agent is likely to encounter.

On the other hand, countries such as *England and Wales* and *Portugal* simplified their fee-system with the introduction of stages of the enforcement process and how for such stages fees are applied. Each stage has to be exhausted before the enforcement officer can trigger an enforceable charge. For example, in *England and Wales*:

Compliance Stage	The compliance stage, which comprises all activities relating to enforcement from the receipt by the enforcement agent of instructions to use that procedure in relation to a sum to be recovered up to but not including the commencement of the enforcement stage; letter charge.
First Enforcement Stage	Where the enforcement agent and the debtor enter into a controlled goods agreement, the first enforcement stage, which comprises all activities relating to enforcement from the first attendance at the premises in relation to the instructions until the agreement is completed or breached.
Second Enforcement Stage	The second enforcement stage, which comprises: (i) where the enforcement agent and the debtor do not enter into a controlled goods agreement, all activities relating to enforcement from the first attendance at the premises in relation to the instructions up to but not including the commencement of the sale or disposal stage; (ii) where the enforcement agent and the debtor enter into a controlled goods agreement but the debtor breaches that agreement, all activities relating to

	enforcement from the time at which the debtor breaches the agreement up to but not including the commencement of the sale or disposal stage.
Sale or disposal Stage	The sale or disposal stage, which comprises all activities relating to enforcement from the first attendance at the property for the purpose of transporting goods to the place of sale, or from commencing preparation for sale if the sale is to be held on the premises, until the completion of the sale or disposal (including application of the proceeds and provision of the information required by regulation 14).

Also, in *Portugal*, the enforcement agent must request advance payment of estimable expenses and fees, and calculates the fees based on the different stages in the enforcement proceedings:

- i. PHASE 1, which begins with the submission of the enforcement request and the correspondent payment of the provision and includes all the acts necessary for the verification and regularity of the enforcement title or decision, research in the databases of tax administration, social security, land registry, commercial and vehicles registry and other similar databases, to obtain all information on the identification of the debtor, including identification and location of their assets. This phase ends with the notification of the creditor to proceed with the payment of the provision of the fees of PHASE 2 or PHASE 3.
- ii. PHASE 2, which begins with the payment of the respective provision and includes the service/summon of the debtor, when the law provides that this should take place prior to seizure, or the service/summon of the debtor to specify assets to be attached or seized, when credits, assets or goods are not identified by the enforcement agent in PHASE 1. This phase ends with the notification of the creditor to proceed with the payment of the fees of PHASE 3 or the extinction of the procedure.
- iii. PHASE 3, which begins with the payment of the respective provision and includes attachment or seizure proceedings, as well as the service/summon of the debtor that takes place after the attachment or seizure has been made. This phase ends with the notification of the creditor to proceed with the payment of the fees of PHASE 4.
- iv. PHASE 4, which begins with the payment of the respective provision and includes sales activities, reimbursement and payments. This phase ends with the extinction of the procedure.

In *Malta*, the creditor is informed in advance on the likely costs of the fees involved, including initial fee, third-party expenses (e.g., storage, locksmith et cetera), enforcement expenses, performance fee. He/she is informed by the lawyer. A similar obligation to inform the creditor, but also the debtor, in advance exists in *Portugal*.

5.6. Advance payment of fees

Advance payment of fees by the creditor may seem logical, but in practice problems might arise. Especially when advance payment is obligatory in order to continue enforcement. In *Bulgaria*, the law explicitly provides for payment of advance fees in advance of each enforcement action for which they are due. In practical terms, however, that proved to be a hindrance to effective enforcement in many

cases, when enforcement action has been planned, notices served, payments invoiced and requested, respectively agreed and approved by the creditor yet not technically transferred to the enforcement agent's account due to a variety of reasons including, but not limited to, technicalities of corporate decision-making and payment processing. The Bulgarian Supreme Court was of the opinion that failure to pay the advance fees does not procedurally undermine the respective enforcement action, but systematic non-collection of advance fees is considered a disciplinary violation on behalf of the enforcement agent. Advance payment of fees by the creditor has been subject to professional debate in Bulgarian jurisprudence for the reason that it would increase the creditor's discretion with regard to whether and to what extent enforcement action shall be taken.

Though in most countries the advanced payment is obligatory, there are also some exceptions. In *Germany* there is no obligation on the enforcement agent to make an advance payment. The collection of an advance is at the enforcement agent's discretion.

5.7. The State as a creditor or debtor

Certain countries have different provisions on the payment of fees when it comes to the State as a creditor (advanced payment) or as a debtor. For example, in *Croatia* (court enforcement-based system), in case the State is a creditor or a debtor, it is exempted from payment of the court fees, but it is not exempted from prepayment of other enforcement costs. It is not exempted from prepayment of enforcement costs in case the enforcement was unsuccessful. In *Finland* judicial authorities, tax authorities, prosecutors and pre-trial investigation authorities are exempted from enforcement fees. The same is the case in *Lithuania*. When enforcing enforcement documents submitted by public bodies (State) for the recovery of sums of money, the judicial officer has the right to postpone the payment of all enforcement costs or to exempt the public body from the payment of these enforcement costs. Normally, public bodies are exempt from paying enforcement costs, whether the recovery was successful or not. If the public body is the debtor in the enforcement case, there is no exemption from paying enforcement costs.

Also in *Germany*, as a rule, an advance shall not be charged in the case of commissions from public authorities or from corporations, institutions or foundations under public law, even if they are not free of charge. Also, the Federal Government and the countries are exempted from costs. This includes the Federal Republic of Germany including the ministries and their central and subordinate authorities, as well as the federal states with their subdivisions. The institutions and funds administered in accordance with the budgets of the Federation and the federal states for the account of the Federation or a federal state are also exempted from costs.

In *Malta*, unless the case is decided in favour of the debtor, the State as a creditor is exempted from prepayment of enforcement costs, including when enforcement is unsuccessful. This matter is always in the Court's discretion. If the Court determines that the enforcement costs should be settled by the creditor, then the creditor will be obliged to pay them. If the Court decides that the State should settle the costs, the State would be responsible for them, unless it is exempt from paying them, in which case the fees will be waived.

In *Slovenia*, in case the State is a creditor, it is exempted only from the payment of court fees, but it is not exempt from prepayment of other enforcement costs. It is not exempt from prepayment of enforcement costs in case the enforcement was unsuccessful. In case the State is a debtor, it is not exempted from the payment of enforcement costs.

Chapter 6: Enablers and barriers for further cooperation in civil enforcement in the European Union

Enforcement at national level falls outside the scope of EU law. This does not mean that it is not closely connected with the exercise and enjoyment of fundamental rights of EU citizens. The freedom to move, reside, work, provide and receive services in the EU requires the development of close ties with member states' legal systems. Citizens or businesspersons might need to claim and enforce their rights, which means that they might come into contact with the judicial system. If EU law is not applicable, EU citizens have to rely on national substantive and procedural rules, which they must be in the position to access (identify) and understand. This is the starting point in order to effectively conduct business, live and work in the enlarged EU.

The Enforcement Atlas project collected information on the applicable rules in all 30 jurisdictions that co-exist in the EU. The present report takes a step further: it attempts to look at the broader picture in order to identify points of convergence and divergence, enabling factors and barriers that might facilitate or hinder future developments and the closer cooperation between member states for effective civil enforcement in the EU. The main points that emerge from this comparative report which appear to form a solid basis for further discussion and cooperation are the following:

1. The enforcement agent as the leading figure in civil enforcement

The "enforcement agent", although the term covers a wide variety of persons, is a person of reference in all national enforcement systems and one of the main actors in civil enforcement processes throughout the EU-27.

The three 'worlds' of enforcement currently observed in the EU (court-based, civil servant-based and self-employed based enforcement systems) provide different solutions to the organisation of enforcement procedures and allocate different roles, responsibilities and professional status to enforcement agents. Despite the differences, there is a lot to be learnt from the strong and the weak points of each system.

An issue of concern - that cuts across jurisdictions and enforcement systems- are dilemmas on how to ensure and control the quality of the performance and activities of enforcement agents. At the moment, quality control of enforcement is carried out in all EU member states through different arrangements for professional control, supervision and disciplinary liability. Quality standards for the work of enforcement agents appear to be a common need and an area where dialogue, exchange of experiences and cross border approaches could have an important impact on the effectiveness of EU judicial systems.

2. Making civil enforcement systems more accessible and user-friendly

Accessibility is a broad concept, especially when used in conjunction with enforcement systems. Is the enforcement system accessible to all? Can EU citizens find with ease the information they need on how to enforce their rights? Or do they have to rely on intermediaries to understand what they have to do? Can they access this information in a language they understand? Is the cost reasonable? Civil enforcement systems –with few exceptions- do not appear to be particularly user-friendly. They appear to be closed and introvertive. But how would they rate from the perspective of the end-user, the citizen? Questions of accessibility could concern the cost, the language, the complexity of the rules and the possibility to understand them, the availability of information as a public good related to the fundamental right of access to justice. Re-examining enforcement systems from an end-user perspective might bring a breath of fresh air, provide workable solutions to simplify rules or procedures which are unnecessarily complex and make their purpose and goal more visible. This can improve the performance of systems themselves but also increase trust in them by convincing citizens that they have a real possibility to effectively defend their rights in the EU.

3. Need to enhance the effectiveness of enforcement solutions

Civil enforcement in the member states demonstrates a common ‘rationale’ and many similarities in the solutions offered. A great degree of convergence is noted in the enforcement procedures available in the EU legal orders which cover (indicatively) attachment against movable assets, bank accounts, immovable property, enforcement in the hands of third parties like the employer or the debtors’ debtor, shares or evictions. But while the broader picture looks coherent, the details can be very divergent. Differences exist in the initiation and termination of enforcement, the person who initiates and conducts enforcement, the documents on the basis of which enforcement is conducted, the choice of enforcement measures, among several other issues. Enforceable titles are not the same: but broad categories can be identified despite the jurisdiction-specific intricacies. Fundamental rights in the enforcement procedure, like the rights of objection or appeal by the creditor, the debtor or the third-party debtor, are safeguarded in all jurisdictions, although in different ways. Other means, like counter enforcement, are present in only some of the jurisdictions.

The existence of a common logic in the solutions offered by civil enforcement systems in the EU offers a common platform for dialogue and exchange on solutions that work well and on how to enhance their effectiveness. Enforcement systems in the EU have more in common than they like to admit. In this context, dialogue and exchange of experience on how to improve the effectiveness of civil enforcement in each member state separately and the in the EU as a whole appears to be a joint way forward.

4. Access to information for the enforcement of claims and protection of personal data

Effective civil enforcement relies on the availability of information on the debtor and their assets (movables, immovables, bank accounts, shares etc). Much of this data is not publicly available and might be protected by specific rules.

Accessing information about the debtor is the first step for effective civil enforcement and arguably one of the most challenging aspects of the work of enforcement agents. Some countries have addressed the issue by creating public registries that offer access to tax, social insurance, welfare data, assets, and even banking data to authorised officials. This solution is not, however, devoid of challenges especially in unifying data kept by different institutions or interlinking pre-existing registries. Other member states increasingly turn to the debtor as the main source of information on their assets. The Information Disclosure Order (Scotland), the disclosure of information by the debtor under oath (Germany) or court orders to this effect (Ireland) are examples in this direction. Yet, these are not devoid of problems either. In other countries, public authorities are obliged to disclose the data available to them. In other countries, the task of collecting intelligence on the debtor’s assets is left to the ingenuity of the enforcement agent, thus making their job, but also enforcement extremely time consuming and challenging. But even the extent of disclosure of data can raise a number of issues: in Austria, it is sufficient to know the bank where the debtor holds a bank account (AU). In Cyprus or Denmark, specific bank account numbers have to be indicated in order for the bank to seize assets. How can one get this information? And where can one draw the line and ensure the (delicate) balance between the right of the creditor to enforce their rights and the protection of the personal data of the debtor?

The (legitimate) limitations in accessing personal data in tandem with the right of everyone to enforce their rights raises an interesting and challenging question that enforcement systems will have to deal with in the immediate future.

5. Digitisation of enforcement

Enforcement systems throughout the EU demonstrate a notable trend towards digital solutions. Whether in the initiation or the termination of the process, in the service of documents, in the

collection of information, several aspects of the enforcement process are becoming digital to a greater or lesser extent. The extent of digitization and the means differ from one state to the other, with Nordic countries proving themselves to be leaders in this trend.

Digitising processes in a profession that traditionally rely on signatures, hard copies and in person service of documents (among others), to guarantee the legality and legitimacy of the enforcement process, can raise important questions. Digitization brings with it possibilities but also challenges: it can simplify complex procedures, make them more accessible, more transparent and accountable, but it will also need to transform the processes and the profession itself. New rules will be necessary, new skills will be required from enforcement agents. Enforcement systems need to use digitisation with to modernize processes and upgrade the enforcement profession - not the other way around. It is high time to open this discussion.