



Hungary

e-manual appendix





**This publication was funded
by the European Union's
Justice Programme
(2014–2020)**

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What is enforced

Judicial enforcement – non-contentious proceedings – requires the enforcement of decisions of courts and other bodies that settle disputes, as well as claims based on certain documents. For example: child support, cash debts, utility debts, child transfers, etc. The obligation to pay contained in a payment order issued by a notary and which has become final shall also be enforced through court enforcement, and the obligations contained in a notarial deed shall be enforced by the notary.

Who enforces

In Hungary, the independent bailiff is the one who collects the claim in the enforcement case. He has an exclusive monopoly on enforcement. Hungarian name of the bailiff: önálló bírósági végrehajtó. They enforce court decisions and enforceable documents, as well as they serve documents. The bailiff shall be independent and shall act independently. They are appointed by the Minister of Justice. Enforcement of court decisions and enforceable documents is their sole responsibility. The bailiff is responsible for the entire execution.

Enforcement procedure

The decisions of courts and authorities resolving legal disputes as well as certain claims must be enforced by way of judicial enforcement proceedings, a nonlitigious proceeding. The rules of court execution proceedings are laid down in Act LII of 1994.

Judicial enforcement proceedings are divided into two successive phases. In the first phase, the court orders the compulsory execution and in a second phase that execution is implemented. Thus, first of all, the court verifies that the conditions of the compulsory execution are met.

Enforcement proceedings are instituted at the request of the party requesting enforcement.

The court with competence to order enforcement will issue the enforcement order (enforcement sheet, enforcement clause, attachment order, transfer order), where the general conditions of enforcement are fulfilled, and therefore the enforcement resolution sets forth an obligation (condemnation), furthermore if it is final and nonappealable, or where the resolution is preliminarily enforceable, and the deadline for fulfilment has elapsed.

The party requesting enforcement must initiate enforcement of resolutions passed by a notary public (e.g. demand for payment), and attachment of an enforcement clause to notary public documents before a notary public.

Where the court orders enforcement through an enforcement certificate, the procedures for redress are for the certificate of enforcement to be withdrawn or the enforcement clause to be set aside, if the court considers that consent to the enforcement should not have been granted.

In cases where the person or entity requesting enforcement knows the bank account number or the employer of the debtor, this person or entity may seek to have a transfer order or an attachment order issued. In this case, no bailiff is involved in the procedure, and the court will send the enforcement document directly to the account holding financial institute, employer or disburser to effect attachment.

In other cases, the court (notary public) ordering enforcement will send the enforcement document to the independent bailiff as per the residence, registered seat of the debtor or in certain cases as per the location of the assets that may be subjected to enforcement, to effect enforcement.

The execution of wages and other emoluments, as well as the amount managed by payment service providers, prevents more serious coercive acts (eg movable, real estate execution).

In the case of a claim for money, bringing wages and other emoluments to court enforcement is the simplest, most cost-effective and least onerous form of property coercion.

Duration of enforcement procedure

The court enforcement procedure depends on several factors (e.g., whether the debtor has foreclosable assets, whether he challenges enforcement, etc.). The process of implementation is long and complex, with many steps, and for each step there is the possibility of paying in installments and thus there is a chance to avoid auctioning and eviction.

Cost of enforcement procedure

Costs incurred in court enforcement are advanced by the applicant and borne by the debtor. The bailiff is entitled to fees and expenses for his activities. The bailiff's fee consists of fees and commissions, in addition to which he is entitled to reimbursement of the costs incurred in connection with the proceedings. The fee shall be based on the value of the enforcement case or the time spent on the proceedings, as well as on the procedural acts performed.

The enforcement officer commission is inversely proportional to the value of the collected claim, ranging from 8% to 3%.

At the beginning of the enforcement procedure the service charges and 50 % of the cost allowance are advanced for the judicial officer. This sum

is at least 9000 HUF but no more than 85 000 HUF. In the case of enforcement of a specific act, this sum is 18 000 HUF.

The cost of serving a document is 7500 HUF.

If enforcement is for the performance of a specific act, enforcement fee is based on the amount of time spent, the fee is 15 000 HUF.

The independent court bailiff shall also collect the standard cost allowance from the judgment debtor together with the claim and with the costs of the enforcement procedure, and shall pay it to the administrative department of the Association. In accordance with paragraph 34 / A (3) of Act LIII of 1994 on Judicial Enforcement the average cost allowance shall be 5,000 forints for each case where the enforceable amount does not exceed 500,000 forints, or 1 per cent if the enforceable amount is above 500,000 forints].

