



# Latvia

e-manual appendix





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## **What is enforced**

Sworn Judicial Officer's task is to perform the execution of rulings of the court and other institutions, where they are not executed voluntarily. Judicial Officers will never take action and enforcement on their own initiative; it will always be based on two preconditions:

1. A ruling of the court and other institutions that has not been already executed;
2. Written application of a creditor.

Consequently, when a particular ruling has not been executed, the person in whose favour it was made has the right to apply to a Judicial Officer for enforcement. If the judgment given by the court has not been executed, the creditor needs to apply to a court for a writ of execution before going to the Judicial Officer. A writ of execution is a document drawn up by a court, which determines the nature of the case, the debtor, the debt collector, as well as the unfulfilled obligation that will be subject of enforcement.

Judicial Officers do not just recover debts, as it is classically accepted. Official duties of sworn Judicial Officers also includes carrying out enforcement a judgment imposing on a debt or an obligation to perform certain actions, for example, if it is necessary to vacate premises or perform certain activities. Judicial Officers also record facts, which can later be used as evidence in court; they do protection of the inheritance, compilation of an inventory of inheritance, deliver court summons and other documents.

## **Who enforces**

Only Judicial Officers have the right to carry out process of enforcement, as well as to perform other official duties required by law, such as record facts, trusteeship an inheritance or deliver court summons and other documents. As sworn Judicial Officers are persons belonging to the court system and in respect of the official activities sworn Judicial Officers are comparable to State officials that empowers them to do enforcement actions such as the seizure accounts within a credit institution, sale movable or immovable property by auction, etc.

## **Enforcement procedure**

When executive case is instituted, firstly, the debtor is informed and notified about it with notification of an obligation to enforce the ruling that is sent by registered mail. It is essential that after enforcement proceedings have been started, the debtor is given a term of 10 days, during which it is possible to pay the debt and the costs of enforcement of the judgment with

a reduced remuneration ratio. If the debtor has paid the amount of the debt and the costs of enforcement of the judgment within the term specified in the Judicial Officer's notice, the costs of enforcement of the judgment shall be reduced by applying a coefficient of 0,5 to the fee for the post. On the other hand, if the debt in the enforcement case is not covered within one year from the date of entry of the enforcement case, a coefficient of 1,5 is applied to the remuneration.

A sworn Judicial Officer has the right to reduce the remuneration tax by applying a coefficient of 0,5, if a person has been recognized as destitute in accordance with the procedures specified in regulatory enactments, but if a person has been granted the status of a politically repressed person, to reduce the remuneration by applying a coefficient of 0,5 the duty of the Judicial Officer.

If the debtor does not communicate with the Judicial Officer, as well as does not repay the debt, enforcement measures may be applied. The measures of enforcement that can be applied are strictly determined in the Civil Procedure Law, which regulates process of enforcement in general. However, the application of specific measures follows from two circumstances:

1. at the request of the creditor;
2. Judicial Officer's assessment. This does not mean that Judicial Officers have right to choose whatever kind of measures, but specifically ones that are provided in the Civil Procedure Law and one should make precise observations of the assessment of the particular case. This is meant for cases when a creditor has chosen more than one enforcement measure and they cannot be applied all together and instead should be applied proportionally one by one.

Consequently, the following enforcement measures are possible:

1. bringing of recovery proceedings against the movable property of a debtor, including the property in the possession of other persons and intangible property, by sale thereof;
2. bringing of recovery proceedings against money due to the debtor from other persons (remuneration for work, payments equivalent thereto, other income of the debtor, deposits in credit institutions or with other payment service providers);
3. bringing of recovery proceedings against the immovable property of the debtor, by sale thereof;
4. bringing of recovery proceedings against the right of superficies of the debtor by sale thereof;
5. transfer of the property adjudged by the court to the creditor and

- performance of activities imposed by a court judgment;
- 6. eviction of persons and removing of property specified in the judgment from premises;
- 7. placing in possession;
- 8. return of a child to the state, which is his or her place of residence;
- 9. other measures as set out in a judgment.

It is important to estimate proportionality when choosing specific enforcement measures to execute a decision. For example, in the case of a decision to pursue recovery of immovable property, it must be assured that all possible and most considerate enforcement measures have been used, but it has been established that there is no income and other property to which recovery should be directed. Secondly, the amount of the debt must be appropriate for recovery to be allowed as a proportionate solution.

Bringing of recovery proceedings against monetary funds in credit institutions it is important that the debtor informs the Judicial Officer of the sums coming into the account, so that there would not be situations where the deduction is made from the amounts against which recovery may not be directed.

Recovery may not be directed against: severance pay, funeral benefit, lump sum benefit to the surviving spouse, State social benefits, State support to a child having celiac disease, survivor's pension and allowance for the loss of provider, compensation for wear and tear of tools belonging to an employee and other compensation in accordance with laws and regulations governing lawful employment relations, amounts to be paid to an employee in connection with official travel, transfer, and assignment to work in another populated area, social assistance benefits, child maintenance.

### **Duration of enforcement procedure**

Enforcement process is not limited in time with exception of enforcement of a decision regarding a fine in administrative violation cases. Such decisions may be enforced within five years from the date on which the decision was submitted for enforcement. In all other cases, enforcement takes place until the proceedings are completed with enforcement or circumstances arise where the proceedings must be terminated or the creditor has withdrawn his request for enforcement.

### **Cost of enforcement procedure**

The costs of enforcement consist of the state fee and expenses related to the enforcement of a court judgment, for example Judicial Officer's fees and expenses necessary for the performance of enforcement actions. As a general principle, these costs are paid at the expense of the

debtor. In practice, however, there are cases where the costs of enforcing a judgment are borne by the claimant himself, given that the Judicial Officer may incur various costs necessary to enforce the judgment when initiating recovery proceedings. Therefore, the Judicial Officer may impose a prepayment of enforcement costs on the claimant.

Such an obligation does not exist for the claimant only at the initial stage of the recovery process, so the Judicial Officer has the right to demand payment of the costs of enforcement of the judgment from the claimant at any stage of the enforcement proceedings. If the claimant pays the costs of enforcing the judgment when submitting the enforcement document, this amount is recovered from the debtor and then reimbursed to the claimant, so forcible recovery does not cause additional losses to the claimant or the financial burden would prevent the exercise of statutory rights.

Creditors shall be exempt from payment of enforcement of judgment expenses to the Judicial Officer:

- 1) in regard to claims regarding the recovery of remuneration for work and other claims of employees and persons in service arising from legal employment or service relations or being related to such;
- 2) in regard to claims arising from personal injuries that result in mutilation or other damage to health, or the death of a person;
- 3) in 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;
- 4) in claims regarding the recovery of child maintenance or parent support;
- 5) in cases where enforcement in State revenue is to be performed;
- 6) in cases where the person is released from the payment of court expenses by a court decision - fully or partially in conformity with the court decision;
- 7) in cases where the recovery must be carried out according to the uniform instrument permitting enforcement in the receiving Member State, except for the cases when the State Revenue Service has reached an agreement with the institution of the Member State which has requested mutual assistance for the recovery of claims, regarding special procedures for the reimbursement of enforcement costs.

Enforcement expenses are strictly prescribed by the regulations of the Cabinet of Ministers. That means that a Judicial Officers are not entitled to arbitrarily determine their remuneration, the amounts of which are determined unitedly for all Judicial Officers.

