



# **Understanding Civil Enforcement in the EU**

**an overview**





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# THE BASIS FOR CIVIL ENFORCEMENT



## Enforceable title or document

grants the right to enforce a claim and to carry out enforcement proceedings



**Court Judgment, arbitral award**  
[most jurisdictions]



**Notarial deed, administrative decision**  
[civil law jurisdictions]



**Enforceable titles from other EU member states**



**Non-EU enforceable titles**  
[provided for in bilateral conventions or national law]



**Special enforcement titles**  
[in some countries]

There is convergence on enforcement titles within the EU but particularities remain. Check the specific legal system you are interested in.

# WHAT CAN BE ENFORCED

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## Almost all of the debtors' assets



**Movable assets**



**Attachments to bank accounts**



**Wages and other permanent income**



**Savings, deposits and current accounts**



**Immovable property**



**Shares**

## EXCEPTIONS AND PROHIBITIONS

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- Income for minimum subsistence
- Welfare and other benefits
- Part of the salary
- Child support and maintenance
- Clothing
- Cooking utensils
- Furniture
- Sacred objects and items
- School items
- Children toys
- Documents of personal nature
- Pictures, audio and video recordings
- Health care aids
- Animals

# WHO ENFORCES

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## Court enforcement

Enforcement professionals are court enforcement agents, directed by a judge.  
Enforcement activity is accomplished by courts.



## Civil servant based enforcement

Enforcement professionals are civil servants.  
The organisation of enforcement is dealt with outside the courts,  
for example through the Ministry of Justice.



## Self employed enforcement

Enforcement professionals are independent.  
Enforcement activity is dealt with on a self-employed,  
entrepreneurial and competitive level.



# BASIC STEPS IN CIVIL ENFORCEMENT

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**01. Getting an enforceable title or document**



**02. Service of documents**



**03. Attachment of assets**



**04. Valuation**



**05. Auction or sale**



**06. Payment of debtor**

# ENFORCEMENT AGAINST MOVEABLE ASSETS

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## Attachment process

- Enforceable title or document
- Court approval [where required]



## Inventory

- Record of possessions of the debtor
- Compiled by the judicial officer
- Parties or witnesses can be present
- Items belonging to third parties are also listed



## Valuation

- Assessment of the monetary value of the movables
- Performed by the judicial officer or expert
- Reference to market prices
- Re-valuation might be possible



## Sale or auction of goods

- Liquidation of goods
- Online auctions
- On site auctions
- Discretionary sale
- Public sale
- Direct sale
- Sale through a retail establishment or commodity market
- Open auction via direct bidding
- Sale by proposals in closed letter or negotiated procedure
- Variety of practices



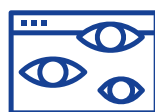
## Completion of sale and distribution of proceeds

# ENFORCEMENT OF IMMOVEABLES

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## **Enforceable title and authorisation from court [if required]**



## **Publicity of the enforcement process both before and after the sale**



## **Valuation of the property**

- To establish the adequacy of the property's value to satisfy the claim of the creditor
- To determine the starting sale price



## **Attempts for conciliation or meetings between parties [only in few countries]**



## **Execution of the sale**

- Auction or e-auction
- Sale via a real estate agent or online
- Amicable sale
- Private sale
- Direct agreement
- Sale by closed letter or by negotiation etc.



# ENFORCEMENT IN THE HANDS OF THIRD PARTIES

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Effort to satisfy the creditors' claim by accessing accounts, salaries or other assets of the debtor which are in the hand of third parties [banks, employers, debtors' debtor etc]



**Enforceable title and/or court decision  
[where applicable]**



**Notification of claim to the bank**



**Freezing or blocking of the bank account**



**Transfer of seized amounts  
to enforcement agent or the creditor**

# ENFORCEMENT COSTS

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## 01. Fee for the administration of the case [filing fee]

- Fee dependent on the value of the case
- Paid by the creditor before the enforcement activity
- Reimbursed by the debtor



## 02. Fee on enforcement activities

- Fee related to activities that enforcement agents may charge for enforcing a case
- Fees may be fixed by regulation
- Paid by the creditor before enforcement activity
- Reimbursed by the debtor



## 03. Fee on efficiency of enforcement performance [performance fee]

- Fee dependent on the efficiency of the enforcement performance
- Often charged as a fixed fee within certain ranges or based upon the percentage of the value enforced
- The enforcement agent will get this fee from the either the creditor or debtor after successful completion of the enforcement case
- Exceptions apply especially in countries with a court or civil servant-based enforcement system

