

EU ENFORCEMENT ATLAS

Updates of national information Phase I

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Table of Contents

1. Introduction.....	5
2. Overview of countries in which no change in the enforcement system were reported.....	6
3. Overview of changes in the (legislation of the) enforcement system:.....	7
3.1. England and Wales.....	7
3.1.1. Court penalties and fines.....	7
3.1.2. Enforcement on immovable property.....	7
3.1.3. Other attachment procedures.....	7
3.2. Estonia.....	10
3.2.1. Postponement, suspension and termination of enforcement.....	10
3.2.2. Supervision over enforcement proceedings.....	10
3.2.3. Enforcement against movable assets to settle pecuniary claims.....	10
3.2.4. Enforcement on immovable property.....	11
3.2.5. Enforcement against wages and other permanent pecuniary income.....	11
3.2.6. Other attachments.....	11
3.2.7. Enforcement of obligations to act, refrain from acting or suffer action – obligating claims.....	11
3.2.8. The costs of enforcement.....	12
3.3. Hungary.....	12
3.3.1 Other attachments.....	12
3.4. Italy.....	13
3.4.1. The legal capacity to serve documents.....	13
3.5. Lithuania.....	13
3.5.1. 1 Initiation and end of the enforcement procedure.....	13
3.6. Poland.....	13
3.6.1 Insolvency legislation.....	13
3.6.2. Access to information on the domicile and assets of the debtor.....	14
3.6.3. The costs of enforcement.....	14
3.7. Slovakia.....	14
3.7.1. Postponement, suspension and termination of enforcement.....	14
3.7.2. Objects and exemptions on enforcement.....	15
3.7.3. The costs of enforcement.....	15
3.7.4. PART V: LINKS, LITERATURE AND SOURCES.....	15
3.8. Slovenia.....	15
3.8.1. Legislation affecting civil enforcement.....	15



3.8.2. Method of sale.....	15
3.8.3. Method of sale Since February 1, 2021 e-auctions of real estate are available as well – first online auction took place of March 8, 2021.....	16
3.8.4. Public sale of real estate.....	16
3.8.5. Enforcement against shares.....	16



1. Introduction

The Enforcement Atlas project aims to address the information gap on enforcement procedures, requirements, competence, costs and timing in the EU-28 member states, numbering 30 enforcement systems. Research was conducted by national judicial officers or enforcement experts, and was compiled in 30 national reports. The information contained in the national reports is updated until end of 2020 and examines enforcement legislation, procedures, expenses and professionals in each enforcement system.

To ensure reliability and credibility of the information, the national correspondents will provide updates twice in the course of the project, to highlight any important changes in the legislation or the procedure.

This publication is addressed primarily to judicial officers, national chambers of judicial officers, lawyers, notaries and stakeholders across the European Union and presents changes in the enforcement legislation and/or procedure, which occurred between 1st January 2021 and 31st March 2021. To ensure efficient presentation of changes, the updates have been grouped per country, and the title of each chapter corresponds to the same chapter in the validated national report of the said country.



2. Overview of countries in which no change in the enforcement system were reported

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Finland
- France
- Greece
- Ireland
- Latvia
- Luxemburg
- Malta
- Netherlands
- Northern Ireland
- Portugal
- Romania
- Scotland
- Spain
- Sweden



3. Overview of changes in the (legislation of the) enforcement system:

3.1. England and Wales

3.1.1. Court penalties and fines

There are several aspects to this. As regards the role of the High Court Enforcement Officer. Non-compliance from a debtor during the enforcement procedure (debts only) will result in the escalation of additional fees. If you recall, I listed the stages of fee-charging that can be accelerated during the enforcement process. *Please see Part IV: Enforcement Costs of the atlas.*

When there is issued to the HCEO a Writ of Possession, which is the recovery of land and/or buildings, the HCEO will exercise slightly different powers, as they are not in attendance to collect a debt, they are there to regain possession of occupied land and buildings.

Civilian Enforcement Agent, (CEA) Principally enforces liability orders and criminal fines issued in the lower Magistrates Court. The liability orders and fines are substantial around 3.2 million issued each year, but of low value.

Local and Central Government are the main creditors who issue these types of debts. Debtors who willfully refuse to pay their property tax can be sent to prison for up to 3 months.

Even though it is very rare in England and Wales that debtors are sent to prison for non-payment of their property taxes the threat is always there for the debtor. It focuses on their minds. In reality, the EA will arrest the debtor with bail conditions. If the debtor does not turn up in court, the next time they are arrested they are taken into custody to appear before the magistrate. In reality, it's a last resort, according to government figures around 80 debtors per annum received a prison sentence for the non-payment of this debt-type.

The same procedure is for the willful non-payment of criminal fines. However, this is covered by different legislation.

3.1.2. Enforcement on immovable property

The powers conferred on the HCEO prohibits the attachment of a court order to the debtors' immovable property. This procedure is carried out by a qualified Lawyer. HCEOs who hold a dual appointment that of an Authorized High Court Enforcement Officer and a Lawyer can undertake this procedure.

Money judgments will entitle the judgment creditor to the sum of money stated. This money is to be paid by the debtor within a time period set by the Court, this is usually 14 days. However, it is not always the case that judgments will lead to prompt payment. Oftentimes creditors can find themselves holding a perfectly valid money judgment but dealing with a debtor who will not or cannot pay. A creditor, therefore, needs to consider how to enforce that judgment and get their money back.



This complex section deals with a county court judgment that remains unpaid, when the only asset is immovable property. Enforcement against immovable property can concern several creditors such as:

- Banks
- Building societies
- Loan companies
- The official receiver (insolvency rules)
- Liquidator
- A trustee in bankruptcy

An example when a county court judgment that remains unpaid there are remedies for the creditor and the debtor. This course of action is generally lengthy and costly with no guarantees on the final Order of the court. To obtain a charging order (*the second part of the process*) will generally take between 6 – 8 weeks for uncontested applications, and much longer should the application be contested or challenged. A charging order may be placed on:

- Land
- Buildings (including the home of the debtor or other property owned by the debtor)
- Apartments
- Maisonettes
- Commercial properties
- Mixed use properties

Once a judgment creditor obtains a charging order on a debtors' home, they may then apply to the court for another order to force the debtor to sell their home.

However, the 12-year rule comes into consideration. Section 20 of the Limitation Act 1980 prevents the commencement of any action to recover money secured by a mortgage or other charge on a **property** after 12 years have elapsed following the date on which the right to receive the money accrued.

A number of factors need to be considered, including the “form of the order made”, and whether or not the property is:

- The “form of the order made”
- Whether or not the property is held in trust for persons other than for the registered owners
- Whether the beneficial interests of joint owners are impeded
- The value of the property
- The amount outstanding on any mortgages or loans
- And any other legal charges against the property

Once satisfied, and before the expiration of the 12-year period, and armed with an order for sale, the creditors lawyer will have already established all the circumstances surrounding the property, such as:



- Ownership
- Valuation
- Amount outstanding
- Equity

The sale of immovable property by the creditor can be carried out in one of two ways. Firstly, they can instruct a local real estate agent to value the property. There is a requirement under the CPR rules to obtain the best possible price, which does not necessarily mean that the property will be sold for market value. It could be between 10 – 30% under value as the creditor will want to recover their outstanding debt as soon as possible.

Should the real estate agent fail in their quest to sell the property, the creditor can choose the second option which is registering the property with an online auction house. The advantage of this second option, is that as an online facility will reach a larger audience than with a local agent. The fees charged should not be more than 2.5% of the purchase price.

There is usually an advertising campaign with open house inspections for several weeks leading up to the auction date. Potential buyers are encouraged to attend for an open inspection and leave their contact details with the agent who will contact them in the lead-up to the auction to measure the level of interest.

On the day of the auction, the property may be open for inspection for one last time, or at least half an hour before the bidding starts. This gives the buyer one last chance to have a final look at the property, and the auction rules.

By bidding, the buyer accepts the terms of the contract on display before the auction, and will not be able to negotiate terms, such as a longer settlement period.

The table below will look at an example of deductions:

Table 2

Creditor instructs an Auction House.	Sale Price	Auctioneer Fees. 2.5% plus VAT @ 21%	Mortgage Company	Equity after paying the first charge – Mortgage Company and Sale Fees	Creditor with Judgement Debt – Charging Order inc legal costs and interest	Amount of final proceeds available to debtors
	£345,000	£10,436.25	£136,000	£198,436.75	£47,657.98	£150,778.77
TOTAL			£146,436,25			

There are certain rules that are applicable for the buyer. The buyer will pay 10% of the purchase price when their bid has been successful and is legally obligated to complete the purchase within 28 days.



3.1.3. Other attachment procedures

There are some very rare Writs available that from time to time are issued to the HCEO that are not covered in this Atlas. They are:

- Writ of Restitution. This is a Writ that is issued where a person re-enters the premises after eviction. It is a Writ in aid of another Writ that was previously executed.
- Writ of Assistance. This Writ is issued where it proves impossible or impractical to execute a normal writ, an example would be to allow access to a computer to remove data from a data base and deliver up that data. Or where an eviction has taken place and the defaulter continues to re-enter the premises.
- Writ of ne exeat regno. A very rare Writ, which is issued prior to judgment, but on receipt the HCEO must ask the debtor to pay up, offer security immediately or be arrested and imprisoned. This Writ would be issued if the debtor intends to flee the country prior to the judgment being obtained.

3.2. Estonia

3.2.1 Postponement, suspension and termination of enforcement

In force from 01 April 2021:

The enforcement officer terminates the enforcement proceedings due to expiration of claim if:

- 1) the debtor has submitted an application to terminate the enforcement proceedings due to the expiration of claim;
- 2) the limitation period has expired;
- 3) the claimant agrees to the termination of enforcement proceedings.

The debtor may submit an application to terminate the enforcement proceedings due to the expiration of claim to enforcement officer or to the court.¹

3.2.2 Supervision over enforcement proceedings

Supervision over the activities of the enforcement officer is exercised by the Ministry of Justice and by the Board of the Chamber's Enforcement Section.²

3.2.3. Enforcement against movable assets to settle pecuniary claims

The enforcement officer extends the term for the payment of the purchase price provided for an oral and electronic auction by an additional period of 15 days by the request of purchaser.³

3.2.4. Enforcement on immovable property

¹ Code of Enforcement Procedure (1) § 48¹ - <https://www.riigiteataja.ee/akt/122032021003>

² Enforcement Officers Act (1) § 54 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>

³ Code of Enforcement Procedure (3) § 93 - <https://www.riigiteataja.ee/en/eli/504032021002/consolide>



Proceeds from the sale of an immovable are distributed as follows:

- 1) enforcement costs; compulsory enforcement costs that cannot be covered at the expense of the proceeds from the immovable;
- 2) claims arising from rights entered in the land register according to the ranking of the right in the land register along with accessory claims;
- 3) a child's claims for maintenance, including a claim that has passed to the State due to the fact that maintenance support has been paid;
- 4) the claims of the parties seeking enforcement for the securing of which the immovable has been seized or whereby compulsory enforcement has been joined;
- 5) other claims.⁴

3.2.5. Enforcement against wages and other permanent pecuniary income

The third party is obliged to provide information in relation to a cash transaction. If the obligation is performed in cash and its amount exceeds 5000 euros, the person subject to the duty to identify must, as a preliminary matter, establish whether they are dealing with a maintenance debtor. If the person is maintenance debtor, then the third party must be informing the enforcement officer. The enforcement officer must seize the claim no later than 5 working days of receiving the notice. The obligation does not apply to a credit institution within the meaning of the Credit Institutions Act.⁵

3.2.6. Other attachments

If the enforcement officer is pursuing a child maintenance support claim, the enforcement officer has the right to submit to the court an application for the suspension of the validity of the rights, permits and documents held by the debtor as well as for prohibiting the granting thereof.

The court may, on the basis of the enforcement officer's application, suspend the debtor's documents for up to two years. The following documents can be suspended:

- 1) an Estonian citizen's passport;
- 2) an alien's passport;
- 3) a refugee's travel document;
- 4) a temporary travel document;
- 5) a seafarer's discharge book;
- 6) a certificate of record of service on an Estonian ship;
- 7) a diplomatic passport.⁶

3.2.7. Enforcement of obligations to act, refrain from acting or suffer action – obligating claims

For an auction between co-owners, the enforcement officer performance pay is 450 euro plus VAT. The fee is paid by the co-owner who made the best offer.⁷

⁴ Code of Enforcement Procedure § 174 - <https://www.riigiteataja.ee/en/eli/504032021002/consolide>

⁵ Code of Enforcement Procedure (1-4) § 117 - <https://www.riigiteataja.ee/en/eli/504032021002/consolide>

⁶ Code of Enforcement Procedure § 177¹-177³ - <https://www.riigiteataja.ee/en/eli/504032021002/consolide>

⁷ Enforcement Officers Act (3) § 36 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>



3.2.8. The costs of enforcement

No advance payment may be demanded from:⁸

- 1) a person who submits a maintenance support claim for enforcement or;
- 2) of a natural person who presents for enforcement a judicial disposition that awards them compensation for loss of capacity for work due to harm caused to their health,
- 3) of a natural person who presents for enforcement a judgment that has been rendered in criminal proceedings and that grants their claim for compensation of harm that has been caused to them by a criminal offence.

For an auction between co-owners, the enforcement officer performance pay is 450 euro plus VAT. The fee is paid by the co-owner who made the best offer.⁹

Where an order on interim protection of a claim concerns the seizure of a vessel, the enforcement officer performance fee is 600 euro plus VAT.¹⁰

If the order for securing an action concerns a non-monetary claim or the value of the action has not been determined or is unspecified, and in the case of enforcement of the order for revocation of securing an action or enforcement of a judgment, the bailiff's fee shall be 100 euro.¹¹

3.3. Hungary

3.3.1. Other attachments

To paragraph III.9 the following is added:

Handover of the Child in Executing the Decision Relating to Visitation Rights

Without holding out for advance payment of the enforcement costs, the bailiff shall schedule the on-site procedure without delay and shall notify the party who initiated the proceedings for the enforcement of a decision on visitation rights and the party requested, as well as the guardian authority and the police. The requesting party shall be present at the handover of the child. If the proceedings fail, the bailiff shall directly notify the aforementioned parties concerning the date set for the new proceedings.

The requested party shall, without undue delay, deliver the child's documents, personal articles used during visitation, the necessary clothing items, the instruments essential for regular studies, any medication the child is taking due to sickness or handicap, medical and technical aid to the requesting party. If requested by the bailiff, the police shall remove from the place of handover of the child any person who obstructs the handover of the child. The

⁸ Enforcement Officers Act (2) § 29 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>

⁹ Enforcement Officers Act (3) § 36 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>

¹⁰ Enforcement Officers Act (1¹) § 38 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>

¹¹ Enforcement Officers Act, (2) § 38 - <https://www.riigiteataja.ee/en/eli/505012021001/consolide>



bailiff shall inform the persons affected in advance concerning any police assistance, and shall record it in a report, including - where justified - a warning for penalty for contempt.

3.4. Italy

3.4.1. The legal capacity to serve documents

To be added to the first paragraph:

According to Articles 106 and 107 of the Bailiffs Act (Presidential Decree 1229 of 15 December 1959) the jurisdiction of the Bailiff corresponds to the territorial jurisdiction of the Court in which his office is located.

3.5. Lithuania

3.5.1. 1 Initiation and end of the enforcement procedure

The first part of this paragraph should read as follows:

Initiation of enforcement

Since 2021-01-01, the new redaction of the Code of Civil Procedure and the Instruction states, that monetary claims (the executive document in original paper form), together with the application form must first be given to the Chamber of Judicial Officers of Lithuania, who digitalize these documents and upload them to the Bailiff Information System, which automatically picks the judicial officer that will initiate the enforcement procedure. Such changes were necessary in order to implement the “One Debtor – One Bailiff” principle.

In cases of non-monetary claims, the creditor may contact any relevant judicial officer, active in the area that the executive document will be enforced. The creditor submits a request to the judicial officer for the commencement of the debt recovery, in the absence of the creditor's claim, the recovery process cannot begin.

3.6. Poland

3.6.1 Insolvency legislation

Point 3 should be read as follows:

National Debtors Register (Law of 6 December 2018), enters into force on 01 July 2021

Footnote 47 should be read as follows:

Law on electronic delivery is supposed to come into force on 1 July 2021



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

The paragraph on the National Debtors Register should be read as follows:

The National Debtors Register is a project of a new database with information on debtors, which is to be launched on 1 July 2021. This system will collect data on all entities against which restructuring, unsuccessful enforcement or bankruptcy proceedings are conducted or have been conducted.

3.6.3. The costs of enforcement

The second paragraph should be read as follows:

It sets out new amounts of enforcement agents' costs, the rules on their collection and the procedure to be followed. It does not apply to the costs of enforcement proceedings conducted by the court and the costs of other court activities. The new regulation applies to proceedings commenced from 1 January 2019 (the date of initiation will therefore be decisive). Previous provisions apply to the cases initiated and unfinished before this date¹². The exception also to apply them to a new regulation on fee on discontinuation and unintentional proceeding initiation, has been declared unconstitutional by Constitutional Court on 1 December 2020, ref. nr P 6/19.

3.7. Slovakia

3.7.1. Postponement, suspension and termination of enforcement

One of the measures taken due to the spread of COVID-19 is that debtor is now allowed to ask for postponement of enforcement. Based on this measure, debtor must state, that due to emergency situation, caused by the spread of COVID-19 his/her income has temporarily decreased and that an enforcement in this situation would have dire consequences on him/her or on members of his/her family.¹³ Such postponement lasts six months, or to 2nd December 2020, at maximum.

Talking about termination of enforcement, act no. 233/2019 on termination of some enforcements, has been in effect since 1st January 2020¹⁴. This act is concerned with the issue of termination of so called old enforcements it also addresses procedure of terminating enforcement which began before 1st April 2017 and carried out according to regulation valid until 31st March 2017. Moreover, this act deals with procedure of entry for repeated enforcement. Old enforcement are terminated according to Act No. 2 Sec. 1. Exceptions from termination of enforcement are stated in Act No. 2 Sec. 2.

The most common reason for terminating an old enforcement is the so-called decision period. This period is set to 5 years since the day a mandate to carry out an enforcement has been delivered to judicial officer.

¹² Art. 52 LEAC.

¹³ Sec. 3a of the Act No. 62/2020 Coll. on special measures taken due to the spread of COVID-19 some laws are being amended using this act, available at

<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/62/20210119.html#>

¹⁴ Available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2019/233/20200101>



This act also includes reasons for which an old enforcement can not be terminated despite the fact that it falls under conditions in Act No. 2 Sec. 1. Included here are for example attachment on alimony, non-monetary benefit, but mainly an old enforcement, which in the last 18 months, before the day on which it is supposed to be terminated, yielded at least 15 eur.

In case an old enforcement has been stopped, judicial officer makes out a notice about the termination of old enforcement, including mainly lawful reasons why the enforcement is to be terminated. It is possible to enter a caveat against this notice, but the enforcement proceedings are finished with the decision of court to overrule this objection. In case there are no objections filed, the enforcement is terminated by the delivery of notice about termination of old enforcement to the court.

However, despite termination of such enforcement, creditor is still entitled to re-submit proposal to carry out enforcement, all former proceedings to secure assets from the old enforcement are retained.

3.7.2. Objects and exemptions on enforcement

Under Act No. 296/2020 on pension, alteration, and amendment of some acts¹⁵, debtor's statement was changed. According to this act, 13th month pension was removed from the list of debtor's claims, which means that it is now possible to enforce this 13th month pension.¹⁶

3.7.3. The costs of enforcement

In case an old enforcement is terminated according to Act No 233/2019 on termination of some enforcement, judicial officer issues a notice about this termination. This notice also includes a prompt to meet flat-rate costs of the old enforcement, which occur due to termination of old enforcement and come up to 35 eur. Judicial officer keeps this amount if these costs were enforced during enforcement procedure. The flat-rate costs of old enforcement are the responsibility of debtor.

3.7.4. PART V: LINKS, LITERATURE AND SOURCES

- Act No. 233/1995 Coll. on the Law on Enforcement procedure and on alteration and amendment of other act available at:
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/233/20210315.htm>
- Act No. 62/2020 Coll. on special measures taken due to the spread of COVID-19 some laws are being amended using this act, available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/62/20210119.html#>
- Act No. 233/2019 on termination of some enforcement proceedings and on alteration and amendment of some act, available at:

¹⁵ Available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/296/20201031.html>

¹⁶ Sec. 111 par. 2 Act No. 233/1995 Coll. on the Law on Enforcement procedure and on alteration and amendment of other acts, available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/233/20210315.html>



<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2019/233/20200101>

- Act No. 296/2020 on 13th month pension and on alteration and amendment of some acts, available at:

<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/296/20201031.html>

3.8. Slovenia

3.8.1. Legislation affecting civil enforcement

Two new acts of the Ministry of Justice have been adopted since September 2020, i.e. Rules on Announcements of Sales in the Online Search Engine and Online Public Auctions in Enforcement Proceedings¹⁷ and Order on Fulfillment of Technical Conditions for the Use of the Online Search Engine for Sales and for Implementation of Online Public Real Estate Auctions in Enforcement Proceedings.¹⁸ These two acts have enabled online announcements of sales of real estate, movables and rights (e.g. shares in Ltd.), the use of the online search tool (engine) of public sales (since February 1, 2021) in enforcement procedures and the online auctions of real estate.¹⁹ First online public auction of real estate took place on March 8, 2021.²⁰

3.8.2. Method of sale

Since February 1, 2021 the e-announcements of public auctions of movables are available on the web page <https://sodnedrazbe.si/>. At that web page users (potential buyers) can use search engine to find a suitable movable item they are interested to buy on public auction performed by the bailiff. We have to point out that the e-auctions of movables do not operate yet (only online auctions of real estate are in place).

3.8.3. Method of sale

Since February 1, 2021 **e-auctions** of real estate are available as well – first online auction took place of March 8, 2021.

In addition, since February 1, 2021 the **e-announcements of public auctions** of real estate are available on the web page <https://sodnedrazbe.si/>. At that web page users (potential buyers) can use **search engine** to find a suitable real estate they are interested to buy.

¹⁷ Pravilnik o objavah prodaj v spletnem iskalniku in spletnih javnih dražbah v izvršilnih postopkih, Official Gazette of the Republic of Slovenia (Uradni list Republike Slovenije) No. 195/20, link: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV14094> (8.3.2021).

¹⁸ Odredba o izpolnitvi tehničnih pogojev za uporabo spletnega iskalnika prodaj in izvajanje spletnih javnih dražb nepremičnin v izvršilnih postopkih, Official Gazette of the Republic of Slovenia (Uradni list Republike Slovenije) No.13/21, link:

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2630> (8.3.2021).

¹⁹ See <https://sodnedrazbe.si/> (13.3.2021).

²⁰ See announcement on the web page of the Slovenian Supreme Court: <http://www.sodisce.si/vsrs/objave/2021030913411667/> (13.3.2021).



3.8.4. Public sale of real estate

Since February 1, 2021 real estate can be auctioned electronically (e-auction or online sale of real estate). The prerequisite to participate on e-auction is to be registered in advance and to pay a deposit (10 % of the evaluated price of the real estate). The participation at the online auction is anonymous.

The enforcement judge determines the duration of the e-auction (e.g. 30 minutes). If the bid is placed 2 minutes before the end of the online auction, the duration of the online public auction is extended for additional 2 minutes until there is no higher bid after the expiration of the 2-minute time frame.

There are two sessions of online auction. In the first session of the online auction real estate cannot be sold at a price that is lower than 70 percent (70 %) of the value of real estate as appraised. In the second session of the online auction real estate cannot be sold at a price that is lower than 50 percent (50 %) of the value of real estate as appraised. The time frame between the first and the second session of public sale is at least 30 days.

In case that the real estate is not sold at the last session of online auction, the enforcement courts terminates the enforcement procedure against debtor`s real estate (Art. 194/1 ESCCA), but the enforcement creditor keeps his/her mortgage, obtained during the enforcement procedure (Art. 194/4 ESCCA).

3.8.5. Enforcement against shares

Since February 1, 2021 the e-announcements of public auctions of shares are available on the web page <https://sodnedrazbe.si/>. At that web page users (potential buyers) can use search engine to find a suitable share they are interested to buy on public auction performed by the judge. We have to point out that the e-auctions of shares do not operate yet (only online auctions of real estate).