

 EU  
ENFORCEMENT  
ATLAS

# Croatia

## Narrative National Report

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## PART I: LEGAL FRAMEWORK

### I.1 Legislation affecting civil enforcement

The main source of enforcement law in Croatia, the **Enforcement Act** (OG No. 112/12, 25/13, 93/14, 55/16 and 73/17),<sup>1</sup> to a large extent is a verbatim version of the first Enforcement Act (OG No. 57/96, 29/99, 42/00, 173/03, 194/03, 151/04, 88/05, 121/05 and 67/08),<sup>2</sup> thus making most of its case law still relevant today. The new Enforcement Act of 2010 (OG No. 139/10, 150/11, 154/11, 12/12, 70/12 and 80/12),<sup>3</sup> which tried to assign some of the enforcement tasks to private bailiffs, never fully entered into effect. Instead of having private enforcement, in 2012 Croatia introduced elements of centralized administrative enforcement of monetary assets. This is the reason why one should also consider the provisions of a special law dealing with substantial and administrative aspects of such enforcement, namely the **Act on the Enforcement of Monetary Assets** (OG No. 68/18, 02/20, 46/20, 47/20).<sup>4</sup> Many of the provisions of both laws are elaborated in more in detail in a **considerable number of regulations**:<sup>5</sup>

- regulating different forms (e.g., *Regulation on the form of executory debenture; Regulation on the form of the debtor's prior consent for seizure of salary/regular income; Regulation on the form for initiation of direct payment procedure* etc.);
- establishing different registries (e.g., *Regulation on the executory debenture registry; Regulation on the real estate registry subject to foreclosure; Regulation on the establishment of Unique bank account registry* etc.);
- regulating remuneration rules for certain types of costs which might arise in certain types of enforcement proceedings (e.g., *Regulation setting forth the official tariff for public commission activities; Regulation on the remuneration for foreclosure activities; Regulation on the remuneration of Financial Agency in enforcement proceedings* etc.); or
- regulating technical aspects (e.g., *Regulation on the foreclosure proceedings; Regulation on the enforcement of the monetary assets* etc.).

The Enforcement Act is relevant both for enforcement and security, thus regulating

<sup>1</sup> Enforcement Act (OG No. 112/12, 25/13, 93/14, 55/16 and 73/17), available on:

<http://www.propisi.hr/print.php?id=11912>

<sup>2</sup> Enforcement Act (OG No. 57/96, 29/99, 42/00, 173/03, 194/03, 151/04, 88/05, 121/05 and 67/08), available on: <http://www.propisi.hr/files/File/IVANA-propisi%20II/382.551%20OVRANI%20Zakon.doc>

<sup>3</sup> Enforcement Act of 2010 (OG No. 139/10, 150/11, 154/11, 12/12, 70/12 and 80/12), available on:

[https://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_12\\_139\\_3528.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2010_12_139_3528.html)

<sup>4</sup> Act on the Enforcement of Monetary Assets (OG No. 68/18, 02/20, 46/20, 47/20), available on:

<http://www.propisi.hr/print.php?id=10503>

<sup>5</sup> All the regulations can be accessed on: <https://sredisnjikatalogrh.gov.hr/>.



the issues such as mandatory mortgage and encumbrance, interim measures etc. A number of general laws apply in situations where there are no specific provisions, such as the **Civil Procedure Act** (OG No. 3/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19)<sup>6</sup> for general issues of procedural nature, or the **Property Act** (OG No. 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14),<sup>7</sup> with regards to the property implications. Additionally, court fees are regulated in the **Court Fees Act** (OG No. 118(18)),<sup>8</sup> while remuneration of lawyers and public notaries is subject to their own **autonomous tariffs**,<sup>9</sup> agreed upon with the Head of Ministry of Justice. Their work is also subject to specific legislation, namely the **Attorneys Act** (OG No. 09/94, 117/08, 50/09, 75/09, 18/11)<sup>10</sup> and the **Act on Public Notaries** (78/93, 29/94, 162/98, 16/07, 75/09, 120/16).<sup>11</sup>

Enforcement of assets of companies involved in insolvency proceedings is subject to the **Insolvency Act** (OG No. 71/15, 104/17),<sup>12</sup> while consumers in comparable situation are subject to the **Consumer Insolvency Act** (OG No. 100/15, 67/18).<sup>13</sup>

## I.2 Enforceable titles

The Enforcement Act distinguishes between two types of titles which can be used for initiating the enforcement proceedings: **directly enforceable titles** (*ovršne isprave*) and **trust-worthy documents** (*vjerodostojne isprave*). The difference between them is substantial, in terms of competent authorities for issuing the enforcement order, its contents and possibility to lodge an appeal against it, as well as its (suspensory/non-suspensory) effect. However, should the debtor refrain from objecting to the payment and enforcement order based on the trust-worthy document, there is no practical difference between two types of titles.

The directly enforceable titles are:

1. an enforceable **court decision** and an enforceable **judicial settlement**;
2. a **settlement** reached in the pre-action proceedings for *peaceful*

<sup>6</sup> Civil Procedure Act (OG No. 3/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19), available on: <http://www.propisi.hr/print.php?id=11532>

<sup>7</sup> Property Act (OG No. 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14), available on: <http://www.propisi.hr/print.php?id=3661>

<sup>8</sup> Court Fees Act (OG No. 118(18)), available on: [https://narodne-novine.nn.hr/clanci/sluzbeni/2018\\_12\\_118\\_2335.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2018_12_118_2335.html)

<sup>9</sup> Available on: <http://www.hok-cba.hr/hr/vazeca-tarifa> (attorneys) and on: <http://www.hjk.hr/Portals/0/Javni%20dokumenti/Pravilnik%20o%20nagradama%20i%20naknadi%20tro%20C5%A1kova%20javnih%20bilje%20C5%BErika%20u%20ovr%20C5%A1nom%20postupku.htm> (public notaries).

<sup>10</sup> Attorneys Act (OG No. 09/94, 117/08, 50/09, 75/09, 18/11), available on: <http://www.propisi.hr/print.php?id=852>

<sup>11</sup> Act on Public Notaries (78/93, 29/94, 162/98, 16/07, 75/09, 120/16), available on: <http://www.propisi.hr/print.php?id=850>

<sup>12</sup> Insolvency Act (OG No. 71/15, 104/17), available on: <http://www.propisi.hr/print.php?id=8203>

<sup>13</sup> Consumer Insolvency Act (OG No. 100/15, 67/18), available on: <http://www.propisi.hr/print.php?id=13810>



*resolution of disputes* involving the Republic of Croatia;

3. an enforceable **arbitration award**;
4. an enforceable decision rendered in the **administrative procedure** and an enforceable settlement reached in the administrative procedure if they are related to the satisfaction of a monetary obligation, unless otherwise provided by law;
5. an enforceable **notarial decision** and an enforceable **notarial deed**;
6. **settlements** reached in procedures before *courts of honor* with various chambers in the Republic of Croatia or within *conciliation/mediation proceedings*;
7. any **other deed** defined as such by the law.

**Trust-worthy documents** are 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.

Each directly enforceable title and trust-worthy document should contain the **names** of the creditor and debtor, as well as the information on the **object, type, scope** and **time of performance**. If the directly enforceable title is a court/administrative decision ordering payment or other type of performance, it should also contain a **deadline** for willful performance. The receipts, as trust-worthy documents, when addressed to consumers, should also contain a **warning** that non-performance can result in the initiation of enforcement proceedings.

Obtaining the official **certificate of enforceability** is a necessary step for all directly enforceable titles, as well as payment and enforcement order based on the trust-worthy document. It is issued by the authority competent for rendering the decision on the claim which is enforced (court/administrative body) or public notary (in case of the payment and enforcement order based on a trust-worthy document). The only exemptions are arbitral awards which regularly do not have to be accompanied by the certificate.

### **I.3 Service of documents to parties and third parties**

Methods of service depend on the **type** of the decisions and orders, as well as on the **body** in charge of enforcement (court, financial agency, public notary). Enforcement orders rendered by court, as well as security orders issued by either court or public notary, are subject to **rules on service in the Enforcement Act**. The situation is different with payment and enforcement orders based on trust-worthy documents, rendered by public notaries, which are delivered in the same manner as lawsuits or judgments in **civil proceedings**.

#### **I.3.1 Service according to the Enforcement Act**



Service to a legal person, to its representative and to natural persons which perform a certain registered activity (such as sole traders, notaries, lawyers, medical practitioners etc.) is done to the address of their **registered seat**. Service to consumers and other natural persons which do not perform any economic activity is done to the address of their (permanent or temporary) **residence** registered in the records of the Ministry of Interior, or by using another method also previously reported to the authorities.

The service is conducted by **postal service provider**. The document can generally be received by **any adult** with legal capacity present at the address of service. Should the postal officer fail to find anyone at the address at the time of delivery, he or she gives a **standard notification** that the letter can be taken over in the nearest postal office within 5 days.

If the service to those addresses fails or no one takes over the document in the nearest postal office, there should be **another attempt** within a period ranging from 30 to 60 days. Unsuccessful second attempt leads to the document being published on the court's e-bulletin board website. As a **fictitious type of service**, it is deemed to have been done after eight days from the publication have passed. Although this type of service was heavily criticized, it survived the constitutional review by the Constitutional Court, which supported it.

In the procedure of **securing claims**, after unsuccessful delivery through the postal service provider, the person who requested security can request the notarial service at his or her own expense. The costs of delivery through a notary public are included in the costs of the proceedings. The service is conducted either by the public notary who issued the security order or a public notary in the place of residence/registered seat of the opponent. If there are several notaries in that area, the service can be conducted by any of those notaries. The public notary, who can be replaced by notary advisor and trainee, chooses whether to conduct service personally or *via* postal service provider.

### **1.3.2 Service according to the Civil Procedure Act**

Since the public notary orders payment, this may well be the first time the debtor found out that there are proceedings initiated against him/her. This is the reason why rules, set forth in the Civil Procedure Act, are applicable in the case of service of notarial payment and enforcement orders.

In the first attempt, the notarial payment and enforcement order should be delivered to the debtor personally. Other household members or neighbors cannot receive the document at this point. They can only receive the notification at the time and place of the next attempt of service. In the second attempt, which takes place after one month, both household members (who are required) and neighbors (who may consent to it) are entitled to receive the notarial document. If the service fails again, it will be attempted twice more, after expiration of 15 days, once in the address mentioned in the request for enforcement or in the address from the official registries, and finally, for the last time, by way of fictitious service, by publishing on the court's bulletin

board. So, the result may be the same, but after taking significantly more complicated steps. It should be emphasized that **fictitious service** may be used as a sanction towards the debtor who **rejects** to accept service. This will result in all future documents being served in the same manner.

The service can be much simpler in cases where debtors are **legal persons**, since they are obliged to use the **electronic service system**. It is a secured system, which can be accessed solely by a qualified electronic signature. The document is deemed to have been served on the day of download or 15 days after it is uploaded to the system if it has not been downloaded.

The Civil Procedure Act introduces alternative methods of service to natural persons, such as delivery at the **workplace** (as alternative to the home/business address) and delivery by way of **public notary office** or **court officer** (only if the creditor makes the down-payment for such delivery). Special service representative may be appointed in case of debtors with residence outside of Croatia. **Regulation (EC) No. 1393/2007** applies to the service of documents to debtors with addresses in other EU member states, along with its forms.

### 1.3.3 Service formalities

Service is supposed to take place during the workday, from **7 a.m. to 8 p.m.**, in the **apartment or workplace** of the natural person – debtor or in the courthouse, should the debtor appear there. Generally, it can take place on **different time** and in **different place**, with the debtor's consent or on the court's own motion when it considers that necessary. This is accurate only in situations when court officers conduct service. When postal services are in charge, their own autonomous terms and conditions are applied, and the service takes place during their working hours. The same goes for service in charge of public notary office.

Each court document is accompanied by the **notification receipt** (*dostavnica*). It contains information about the date of service, as well as the signature of the person who received the document. It should also help to identify the person who conducted the service, as well as the relation of the addressee to the debtor (if he or she is not the one receiving the document). Similar formalities are prescribed in post office terms and conditions.

The **envelope** in both situations is standard form with the name and address of the debtor, along with the number of the casefile and remark on the type of the proceedings. Data protection rules do not allow more information to be displayed on the envelope.

Everything else is a part of (payment and) enforcement order and can be viewed by the authorized addressee exclusively. The **contents** of such orders are laid down in the law and they comprise of the information on the directly enforceable or trust-worthy document based on which the enforcement is ordered, the creditor and the debtor, the claim, the means and object of enforcement, and any other information necessary to enforce the claim. Notarial payment and enforcement order should also contain instruction to settle the claim within eight days, under a threat of enforcing such



order.

The order can be a **simple stamp** on the document forming a request for enforcement. It does not have to contain the reasons, but it does have to contain information on the **legal remedies** available to the debtor, along with instruction when and before whom to lodge them.

#### 1.4 Legal remedies, appeal and objection

Simple procedural decisions (*zaključak*) are not subject to appeal, whereas enforcement orders are. The type of legal remedies available to the debtor depends on the type of enforcement proceedings. If the enforcement proceedings are initiated based on a directly enforceable title, the debtor can lodge an **ordinary appeal**, whereas in case of a payment and enforcement order based on a trust-worthy document, he or she can lodge an **objection**.

The main difference between the two is their (non)suspensory effect. The appeal generally does not suspend enforcement, while objection does, with proceedings being automatically transferred to the competent court, which should decide whether there are sufficient grounds for ordering payment. If the debtor, however, objects only the enforcement and not the payment order, there is no substantive difference between the two remedies, regardless of the different title for initiation of the enforcement proceedings.

The deadline for lodging both legal remedies is **eight days** from the service of the enforcement order. The **competent court** decides both on the appeal and the objection. Although objection is filed before the public notary who rendered a payment and enforcement order based on a trust-worthy document, he or she only transfers the casefile to the competent court.

The reasons for lodging an appeal and objection are the same, but in the former case the debtor can choose to object both to the payment order and the enforcement order. If he or she only objects to enforcement, the effect will be the same as if the appeal has been lodged against an enforcement order based on a directly enforceable title. The debtor can base his or her appeal or objection on the allegation that:

- the enforceable title should not (or no longer) be considered enforceable;
- the enforcement is stayed, for a limited time or permanently, upon the parties' agreement;
- the enforcement has not been requested within the statutory period (should such period exist) or the condition upon which it has been rendered was not fulfilled;
- the creditor is not entitled to initiate the proceedings, or not against the debtor;
- the claim ceased to exist or the decision upon which it was based has been annulled or the performance of the claim is postponed,



prohibited, altered or in some other way prevented, even for a definite period of time;

- the claim in the enforceable title became statute-barred.

Since the last three categories of reasons require determination in court proceedings, the debtor is – upon the court’s request – supposed to file a **special declaratory action** to determine the enforcement inadmissible. If accepted, after such declaratory judgment has become final, the enforcement proceedings are terminated.

These last three categories of reasons may also occur later during the enforcement proceedings. In that case, the debtor can also lodge and **extraordinary appeal** at the latest until the end of the enforcement proceedings. Again, the court will order him or her to initiate court proceedings with the same effect, as if the appeal was lodged.

The extraordinary legal remedies can be lodged under strict conditions of the Civil Procedure Act and only as a **second appeal against second instance decisions**, when such decision depends on solving a substantive or procedural issue significant for the uniform application of the law.

### **1.5 Postponement, suspension and termination of enforcement**

The enforcement can be postponed upon reasoned request of the debtor, the creditor, the third person or by mutual agreement of the parties.

The **debtor** can request suspension if he or she manages to prove, on the level of probability, that he or she would suffer irreparable or nearly irreparable damages as a result of enforcement, or if he or she demonstrates that it is probable that such deferment is necessary to prevent violence. Additionally, the debtor has to prove that the legal remedies were lodged either against the directly enforceable title (judgment, arbitral award, settlement, notarial deed), the enforcement order, certificate of enforceability or conduct of enforcement, or that there are extraordinary circumstances officially declared by the Government preventing him or her from undertaking economic activity, or that there are criminal proceedings pending with regards to the claim which is subject to enforcement.

The creditor is entitled to respond to such a request and even condition his or her approval with a **guarantee deposit**, which the debtor must make within 15 days. If the creditor **agrees** with the suspension, the court does not have to assess the abovementioned prerequisites. If the creditor himself or herself deposits the amount as a security for the damages that might occur to the debtor, the court will automatically deny the debtor’s request for suspension.

The suspension can also be ordered, without any special prerequisites met, upon request of the **creditor**, although only once. Such suspension can last maximum 6 months. The creditor needs to request continuance of the enforcement, under the threat of its termination.

A **third party**, who requested the enforcement on a specific object to be declared inadmissible, may also request suspension with respect to such object if the person proves, on the level of probability, the existence of his or her right and that he or she



is also facing irreparable or nearly irreparable damages, provided that he or she has initiated litigation as instructed by court after filing his or her objection. The suspension can also, upon the creditor's request, be conditioned upon the payment of a guarantee deposit.

**The consequence of the suspension** is that no enforcement activities can take place, except securing measures establishing mortgage. The enforcement is suspended until the court decides on the remedies that the debtor/third person has lodged or until the date determined by the court. The suspended enforcement starts over on the court's own motion or upon timely request of the creditor or his or her payment of security deposit.

The court orders, on its own motion, that the enforcement is **terminated** if the directly enforceable document is repealed, altered, nullified or in some other way placed out of force by a court decision or if it has been determined in some other way that it has no effect (e.g., if the certificate of enforceability is repealed). The same consequence comes about if enforcement becomes impossible. **Termination upon the debtor's request** can occur only if the court establishes that the enforcement covers objects not included in the enforcement order and which are exempt from enforcement or if the possibility of enforcement on such objects is limited.

The enforcement is **regarded as completed** after the decision dismissing or rejecting a request for enforcement has become final, after the enforcement action by which the enforcement is completed has been performed or after enforcement has been terminated.

## **I.6 Counter enforcement**

**After the end** of the enforcement proceedings, the debtor is entitled to request from the court to instruct the creditor to return what has been retrieved as the result of enforcement in case:

- the directly enforceable title is repealed, altered, nullified, placed out of force by a court decision;
- the debtor fulfilled his or her obligation out of court, so that the claim subject to enforcement was settled twice;
- the enforcement order is repealed or altered by a court decision and the request for enforcement was dismissed or rejected;
- the enforcement on a specific object was declared inadmissible.

No counter enforcement can take place in the enforcement proceedings initiated on the court's own motion. Additionally, the counter enforcement is permitted only if there are **no factual or legal changes**, which prevent the creditor to return what he or she has obtained during the enforcement.

The creditor may also be liable for any **damages** incurred to the debtor due to the

above-mentioned reasons. If the creditor received money, he or she also owns **default interest** from the date when the amount was received.

The request for counter enforcement must be submitted within **three months** from the date when the debtor learned about the existence of reasons for counter enforcement, but in any case, within one year from the completion of enforcement. By no means does this right of the debtor interfere with his or her right to request **damages** in separate court proceedings, but he or she cannot proceed with such proceedings until the abovementioned statutory deadlines for counter enforcement expire.

Further proceedings depend on the creditor's reaction. He or she can respond to the debtor's request, in which case the court schedules a **hearing**. In case there is no response, the court can decide on the request without hearing the parties in person.

If the request is excepted, the court orders the creditor to return to the debtor what he or she received as the result of enforcement within **fifteen days**. The debtor is entitled to request the court to order counter enforcement based on such decision. The rest of the enforcement proceedings is the same as in any other enforcement.

### **1.7 Objects and exemptions on enforcement**

Things which are not subject to ownership or trade (*res extra commercium*) cannot be used as an **object of enforcement**. Additionally, claims arising out of taxes and other fees, as well as facilities, weapons and equipment meant for defense fall into the same category.

This is not the case for the debtor's real estate, movable property, bank accounts, income, monetary claims, claims to hand over movable or immovable property, shares and active securities, bonds, and other material rights of the debtor. The court orders enforcement on the object proposed by the creditor, but the debtor can request the enforcement to be **limited** to other objects if they are sufficient to settle the claim. In some cases, the law sets forth the **statutory limitations** for enforcement on certain type of objects to protect the dignity of the debtor and other interests opposed to the interest of creditor.

The debtor is protected with regards to his **movable property**. The debtor's property for personal use (such as clothes, food, furniture or walking aid for disabled persons) or of personal value (such as recognitions, medals and wedding rings), working and breeding livestock, agricultural machines and other working tools of the debtor necessary for his or her economic activity, cannot be objects of enforcement.

The greatest number of exemptions and limitations are prescribed for the enforcement of **debtor's monetary claims**. Income on the basis of legal maintenance or maintenance ordered by court, different types of social welfare and benefits (such as unemployment welfare, parental or child support), scholarships and awards etc. may not be objects of enforcement. Additionally, there are certain **limitations** to enforcement on salary and other regular income. Generally, only 1/3 of the regular income can be subject to enforcement. In case of enforcement of maintenance (either

statutory maintenance, or maintenance ordered by court because of personal injury) 1/2 of the regular income is subject to enforcement. In cases of child alimony, the proportion is 3/4. However, these proportions are even smaller in case the debtor's regular income is smaller than the average Croatian wage. In that case, only 1/4 of the income or 1/3 of average salary (depending which one is more favorable to the debtor) can be object of enforcement. The proportions for privileged (maintenance) creditors remain unaffected, regardless of the debtor's salary.

Significant exemptions are prescribed with regards to the **debtor's real estate**. Agricultural land and farm buildings of an agriculturalist to the extent required for his or her support and the support of his or her family members and other supported persons may not be an object of enforcement. The debtor's home as his or her own only real estate in possession cannot be subject to enforcement if the value of the (main) claim is 20.000 HRK (ca. 2.600 EUR). If the value is higher, the court can deny request for enforcement if such order would be unproportionate, taking into account listed (albeit, non-exhaustive) criteria.

The real estate of **legal persons** is exempt from enforcement if and to the extent it is used for their economic activity. Their movable property is subject to enforcement, except for raw materials, semi-finished products meant for processing and production materials in the amount necessary to the debtor for an average month's production.

The property of **foreign countries** generally cannot be subject to enforcement, unless prior consent is obtained either from the Head of Ministry of Justice, or the foreign country. The request for enforcement on such object should be accompanied by the written consent.

### 1.8 (Court) penalties and fines

**Non-monetary claims** are enforced by way of imposing fines and imprisonment in case the debtor does not perform the action requested in the enforcement order. When choosing between the fine and imprisonment, the court should opt for the less restrictive method.

The **fines** are restricted by the maximum amount which can be imposed upon the debtor. If the debtor is a natural person, he or she can be sentenced to a fine in the amount from 1.000 HRK (ca. 130 EUR) to 30.000 HRK (ca. 4.000 EUR). The amounts are significantly higher if the debtor is legal person and they range from 10.000 HRK (ca. 1.300 EUR) to 100.000 HRK (ca. 13.000 EUR). There are no restrictions in terms of the number of fines the court can impose on the debtor. The court can order the payment of as many fines as needed to force the debtor to perform the obligation. The court can also replace the fine with imprisonment.

The **imprisonment** can last from 15 days to 3 months. However, if the debtor continues to neglect his or her obligation, he or she can be incarcerated for a total duration of 6 months. When imprisonment is ordered as a result of non-payment of a fine, each 300 HRK are replaced by 1 day in prison, which is a general rule in criminal and misdemeanor proceedings. However, the total duration of imprisonment cannot exceed a maximum allowed duration of 6 months.

Fines and imprisonment can also be imposed as a **sanction** to representatives of legal persons and natural persons. Of course, legal persons can only be sentenced to a fine. A sanction can be imposed as a consequence of:

- concealing, damaging or destroying the property of the debtor contrary to the court order;
- committing acts of violence or acts by which the rights, security and dignity of the creditor or other persons participating in the enforcement can be seriously damaged or threatened;
- undertaking any actions against the order or prohibition of the court that can lead to irreparable or nearly irreparable damages to the creditor;
- undertaking any actions hindering the court, the judicial officer or other authorized persons in the enforcement proceedings;
- other reasons for sanctioning the debtor, which may be laid down in law.

The only difference between imprisonment as a sanction and an enforcement measure is its duration (up to one month instead of three). If the court finds there is a strong possibility that the abovementioned actions might occur, it can issue a prior **warning**.

The imprisonment is enforced on the court's **own motion** in the same way as it would in criminal proceedings. The costs of enforcing a prison sentence are secured in the **state budget**. The persons sentenced to the payment of fine or imprisonment can lodge a non-suspensory **appeal** within three days of receiving the court decision.

### **I.9 Access to information on the domicile and assets of the debtor**

A person who claims that he or she intends to initiate enforcement proceedings is entitled to request from:

- the **Croatian Pension Insurance Institute**, to provide information on whether a natural person is an insured person in the Institute, on what basis (employment, independent professional activity, trade or independent activity in agriculture) and with whom, i.e., whether he or she receives a pension, compensation for bodily injury or any other permanent compensation about which it keeps records;
- the **Ministry of Interior**, to provide information on whether a person is registered as the owner of a vehicle in the records on registered and marked vehicles and on the type, make, type, model, year of production, vehicle registration number and the existence of encumbrance on that vehicle;
- the **Ministry of Interior**, to provide information on the number of identity card, in addition to information on the name, surname and date of birth;
- the **Central Depository and Clearing Company**, or other authorized persons with securities recorded in the accounts, dematerialized securities, shares, bonds, treasury

bills, treasury bills, commercial papers, certificates of deposit and other securities issued in series to provide information on whether a person has registered securities in the register;

- the **Harbor Master's Office**, to provide information on whether a person is registered in the register as the owner of a ship, yacht, floating object, fixed offshore object, boat, or those objects under construction;
- the **body responsible for cadastral records**, to provide a printout of title deeds kept for a natural or legal person;
- the **employer or the payer of permanent income**, to provide information on the manner in which the person against whom the applicant intends to initiate proceedings is paid a salary, or other permanent cash benefits;
- the **Tax Administration**, to provide a certificate on the calculation of taxes, surcharges and contributions, including contributions for individual capitalized savings from the total determined amount, indicating the bank accounts to which these taxes, surcharges and contributions are planned to be paid;
- **other body or person**, who is in charge of other registries of rights which may be subject to enforcement proceedings, to provide information on whether a person is registered in the register or register and give information.

Additionally, the court can request from the person, nominated by the creditor as the **debtor's debtor** or that some parts of his or her property are in his or her possession, to declare, within eight days, whether the debtor has a claim against him or her, or to indicate the parts of his or her property that are in his or her possession.

Each of the abovementioned bodies and entities are not obliged to act upon the request of the person requesting the data until receiving the down-payment of the **costs** for taking the action, but they generally have to conform within 8 days of receiving the request. The persons and bodies are strictly prohibited from informing the debtor that the information has been requested. They are responsible for any damage arising from the breach of these duties.

Since the data is stored in public registries, generally accessible to everyone with legal interest to access them, there is no special obligation of the creditor to keep the information obtained secret. If he or she has different claims against the same debtor, he may, without repeating the inquiry, request enforcement on objects which are known to be in the debtor's possession from previous proceedings.

Since much of the information needed for a successful enforcement is available in public registries, the debtor is no longer required to provide information on his or her assets. Namely, upon the request of the creditor, the debtor was required to give a so-called **indicative declaration**, that is a statement in court, with the list of his or her property which is not in his or her possession or that he or she does not know where they are. In cases that enforcement of monetary claim was unsuccessful, because the objects of enforcement were not found or their value was insufficient, the debtor was further obliged, again upon creditor's timely request, to give an **indicative list of**



**property.** The seriousness of the declarations was guaranteed by their public filing at a court hearing, where even witnesses could have been heard and other evidence conducted, in order to prove the veracity of debtor's statements. As this solution did not yield desired effects in practice, it was abolished in 2014 and replaced by obtaining information from public registries.

## **PART II: ORGANIZATION OF ENFORCEMENT**

### **II.1 The status of the judicial officer**

Most of the enforcement activities which are not carried out by the Financial Agency in the enforcement over monetary assets are conducted by the enforcement administrators. The 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.

Each court has several of its own enforcement administrators among whom the activities are distributed evenly. There are no issues with territorial competence, as all enforcement administrators under one court are responsible for carrying out enforcement in the whole territory of the court of their employment. Carrying out of their activities is regulated by the Enforcement Act and Regulation on Court's Conduct. The latter regulates matters, such as:

- obligation of the enforcement administrator to hand over the cash and other valuables obtained through carrying out the enforcement activities;
- obligation of the enforcement administrator to issue notes of acceptance for such acquisition;
- obligation of the enforcement administrator to file reports on the time, venue and course of enforcement activities etc.

There are no special rules with regards to their ethical duties. They are subject to removal under the same conditions as judges. These matters are regulated in the Civil Procedure Act. The judges and the enforcement administrators are prevented from carrying out any activities if:

- they are a party, legal representative, or proxy of a party;
- they and another party are co-beneficiaries or joint and several debtors;
- they are employed, either steadily or temporarily, by the legal person which is a party in the proceedings;
- the party, the party's representative or proxy is their relative in the direct line up to any degree or in the collateral line up to the fourth degree, or their (formal/informal) spouse, or an in-law up to the second degree (regardless of whether or not the marriage has ended);



- they are the guardians, adoptive parents or adopted child of the party, the party's representative or proxy;
- they have participated in the same case in proceedings before a lower court or before another body;
- they participated in insolvency proceedings upon which the dispute arose or participated as the insolvency judge or administrator;
- other circumstances give rise to doubt about their impartiality.

## **II.2 Supervision over enforcement**

The supervision of enforcement carried out by enforcement administrators is done by the court. 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. The court may revoke any unlawful or irregular actions carried out by the enforcement administrator. Additionally, each judge is subject to the control of the State Judicial Committee, which decides on the evaluation of judges, but also decides in disciplinary proceedings against them. There is no direct responsibility of the enforcement administrators to the Ministry of Justice, despite the fact that the Ministry's approval is needed for any new employments or promotions.

## **II.3 Access to the premises**

During the search of the debtor's apartment or clothing that he or she is wearing and during other enforcement actions, the enforcement administrator is obliged to proceed with due respect for the person of the debtor and his or her household members. Additionally, 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.

The enforcement on the premises of a legal person is carried out in such a way that the enforcement administrator, before proceeding with an enforcement action, asks the representative of the legal person to be present during the enforcement or to appoint some other person to be present. If the representative of the legal person refuses to behave in line with the request of the enforcement administrator or if the enforcement administrator does not find him or her in the premises of the legal person during the undertaking of the enforcement action, the action shall be carried out in the presence of two adult witnesses.

If an enforcement action has to be carried out in a room which is locked, and the debtor or his or her representative are not present (or will not grant access to the premises), the enforcement administrator is entitled to a forced entry to the premises in the presence of two adult witnesses or a notary public. Special minutes are supposed to be made concerning the performance of these enforcement actions, accompanied by a signature of the invited witnesses or the notary public.

## **II.4 Obstructing the judicial officer from carrying out enforcement**

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. The police are supposed to act in accordance with the order of the enforcement administrator. The enforcement administrator may order the use of force against any person obstructing enforcement, if necessary. The general rules with respect to the authorizations and actions of police apply. The costs of the police intervention are considered necessary costs of enforcement. Additionally, the person obstructing the enforcement can be sentenced to a payment of fine or imprisonment, as described *supra* at I.8.

## II.5 Time of enforcement

The enforcement administrator is authorized to carry out enforcement on workdays, during daytime. However, the court may order enforcement to be carried out on a non-business day or during the night if there is a well-founded reason for deciding so.

## II.6 Mediation

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. Should a settlement be reached within the mediation proceedings, this may be a ground for lodging an extraordinary appeal, as explained *supra* at I.4. However, no automatic termination is possible due to the fact such settlement was reached.

# PART III: ENFORCEMENT PROCEDURES

## III.1 Initiation and end of the enforcement procedure

In principle, the enforcement procedure is initiated **on the proposal for enforcement of the creditor**. It is **the task of the creditor** to deliver information on the (enforceable) assets of the debtor and **to indicate the object of enforcement** in the proposal for enforcement.

The authority competent for ordering enforcement by issuing the enforcement order depends on the enforceable title (see *supra* I.3). In principle, the proposal for enforcement based on a directly enforceable title is to be **filed with the court**.<sup>14</sup> On the other hand, the proposal for enforcement based on a trust-worthy document is to be filed **with the notary public**.

The request for enforcement (contained in the proposal for enforcement) needs to meet certain **requirements**: it must contain the enforceable title, both parties (creditor and debtor) with information to identify them; the debtor's obligation; the means or objects of enforcement and other information which, depending on the object of enforcement, are necessary for the enforcement to be carried out. Besides that, the proposal for enforcement based on a trust-worthy document has to include a request for notarial payment order, i.e., a request for a notarial order to the debtor to settle the claim with any pertinent costs within eight days, and in the case of disputes involving bills of exchange and cheques within three days from the service of

<sup>14</sup> The request for enforcement based on an executory debenture (*zadužnica*) is to be filed directly by the Financial Agency (FINA). See *infra* III. 3.



the order (art. 39 EA).

The creditor may at any time **withdraw the proposal** for enforcement (without the debtor's consent). In such a case, the authority competent for enforcement shall terminate the enforcement. However, the creditor is entitled to file a new proposal for enforcement.

In principle, when filing a proposal for enforcement by the court that has not decided on the claim, the creditor has to attach the enforceable title with **the certificate of enforceability**. The certificate of enforceability is issued by the authority that decided on the claim at first instance, if the decision has become final and the deadline for voluntary fulfilment of the claim has expired (in principle 15 days from the service of the decision to the debtor). Notaries public issue certificates of enforceability of their documents by themselves.

After the enforcement order is issued, the enforcement is carried out differently depending on the object of the enforcement.

### III.2 Enforcement against movable assets to settle pecuniary claims

Enforcement against movable assets is not used in practice so often, as in many cases it proved to be inefficient.

If the creditor has specified the location of the movable items in the enforcement proposal, the **court, in whose territory the movable items are situated**, is competent to decide on the enforcement proposal for movable items. If the creditor has not specified such a location, the **court, where the debtor is domiciled**, is competent to decide on the enforcement proposal.

The **enforcement order must be delivered to the debtor** prior to the inventory of the movables. At the same time, the judicial officer shall request the debtor to pay the debt with interest and costs.

The judicial officer shall notify the creditor of the time and place of the inventory. The **non-attendance of the parties obstructs the inventory**. The enforcement will be terminated by the court if the creditor does not attend the inventory, which had already been suspended due to his or her absence. If the debtor does not attend the inventory, the creditor has to propose the repeated inventory, which can be performed with police assistance. Otherwise, the enforcement will be terminated by the court.

By the end of the enforcement of the item **the third party** can file an **objection** with the court stating that he or she has rights on the item and asking the court to declare the enforcement inadmissible. The third party has to prove their rights. It is assumed that the **matrimonial spouses are co-owners of all movable items** that are in the house, flat or their business premises.

**The debtor's items** that are **in the possession of a third person** may be inventoried only upon consent of the latter.

The creditor is obliged to indicate in the proposal for enforcement whether he or she



wants the inventoried items to be entrusted to his or her care or to the care of a specific third party, unless the items are in court or notarial deposit. The court decides on the proposal by the enforcement order.

The creditor gets **the right of pledge** over the inventoried items.

**The value** of the movable items is **determined by the judicial officer** if the court has not ordered that it has to be determined by an expert or by an official commission agent (*javni komisionar*). In any case, the parties can request a re-valuation.

The following **methods of sale** of movable items are available: oral public sale and direct settlement. The sale may be entrusted to a certified commission agent. The method of sale is decided by the **court**, taking into account that the items are sold to the best bidder. According to the law, upon the proposal of the creditor, an e-auction is also available as a method of sale. In that case, the rules on e-auction of immovable apply.<sup>15</sup>

In principle, **oral public auction** is held at court. However, the court can order it to be carried out at some other place. The creditor and the debtor shall be notified of the place, date and hour of sale. Between the day of inventory and the day of sale at least fifteen days must elapse. The sale at oral public auction is conducted by the judicial officer, but it can be entrusted to the notary public.

The sale by **direct settlement** is conducted by and between the purchaser and the judicial officer or the commission agent. The judicial officer sells the items on behalf and for the account of the debtor, and the commission agent on his own behalf and for the account of the debtor.

Certain **persons** are **exempted** from buying attached movables. These are: the debtor, the judge, the judicial officer or anyone else who exercises official duty in the procedure of sale (e.g., deputy or assistant of a judicial officer, expert who valued the movables) or any other person who according to the law cannot acquire the right of ownership on the movables which are the object of enforcement.

The place, day and hour of the public sale have to be published on the court's notice board.

The potential buyers must deposit a **guarantee**, which shall be returned to all other bidders after the buyer deposits with the judicial officer the full price of the sold movable.

A public auction can take place even if only one bidder participates and that is not a reason for postponement of the public sale.

There is only **one session of public sale** and movables cannot be sold at a price that is lower than 50 % of their value as appraised. If the movables are not sold at the session, the enforcement will be terminated. Different rules apply on the sale entrusted to a certified commission agent, that is entitled to sell a movable item at a price that is lower than 33 % of its value as appraised if the item has not been sold for two months

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<sup>15</sup> See *infra* III. 5.



at a price that is lower than 50 % of the value. If the movables are not sold in one month, the court will terminate the enforcement.

The buyer shall **pay the sale price immediately** after the end of the public auction. However, the judicial officer may hand over the sold items to the buyer even though he or she has not deposited the sale price, if the creditor agrees to it. He can agree only up to the limit of the amount of the sale price that would belong to him. If the sale price is not paid within the set time limit, the public sale has failed.

The buyer becomes the owner of the item by their **handover**.

If there is only **one creditor**, his or her claims are satisfied in the following order: expenses of the enforcement; expenses determined in the enforceable title; interests and the main claim. The priority order of the **creditors** that have to be paid from the sale revenues depends on the time a creditor gained pledge on the sold movable item. Creditors with pledge shall be satisfied by order of priority. The expenses and interests of the enforcement creditor have the same rank as his or her main monetary claim. If there are more creditors with the same order of settlement, they will be settled proportionally in their amount, if the amount earned through sale of the movables is insufficient for complete settlement. The settlement of the creditors can be disputed in court.

### III.3 Attachment on the bank account of the debtor

In accordance with the **Act on the Enforcement of Monetary Assets**, attachment on the bank account of the debtor is conducted by the **Financial Agency (FINA)**, and it is conducted **on all the accounts and time deposits held by debtors in credit institutions**. The procedure is conducted in accordance with the personal identification number of the debtor and **without his or her approval**. However, there are **exceptions**, so income, fees and amounts exempt by law cannot be enforced and the debtor can dispose of such funds freely. One should take care, however, that the conditions for opening a **special account** are met, so that the exempt funds are fully protected in case where an enforcement procedure has been initiated.

When conducting enforcement of monetary funds, it is necessary to distinguish between: enforcement conducted by the employer or the Croatian Pension Insurance Institute (CPII) based on a previously signed approval on salary or pension attachment; and enforcement of the monetary funds conducted by the Financial Agency (FINA) based on the creditor's order. And while the employer, or the CPII, may conduct enforcement of regular monetary funds, such as salaries and pensions only, FINA may conduct enforcement of all the accounts of the enforcement debtor, with the exception of the funds in a special protected account.<sup>16</sup>

All transaction accounts and time deposits of nationals of the Republic of Croatia are registered in the **Unified Register of Accounts**, an electronic database of accounts

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<sup>16</sup> In case of income exempt by law from enforcement, if the debtor does not have sufficient funds in the current account for the execution of the enforcement order, he or she may open a special account for future inflows of such protected funds, which he or she may dispose of only in the operating units of the credit institution in which such a protected account has been opened.



**kept by FINA.** All these accounts may be subject to enforcement for the purpose of debt collection. Exempt from enforcement are funds amounting to 3/4 of the enforcement debtor's salary, but no more than 2/3 of the average net salary in the Republic of Croatia, and if the salary is below average, the 2/3 of the salary amount may not be enforced. In case there are more attachment orders, banks conduct payment in order **according to the time of delivery of the attachment order.** If there are insufficient funds in the accounts to settle the transfer order, credit institutions receive FINA's order on **blocking of all the accounts** of the user and prohibition of use of time deposits. FINA is obliged to notify the bank to release the debtor's accounts upon payment in full of the claim.

The bank can be held liable in case of failure of the bank and its official to comply with the attachment order.

#### **III.4 Enforcement against savings deposits and current accounts**

See III.3.

#### **III.5 Enforcement on immovable property**

The court in whose territory the immovable item is situated (*forum rei sitae*) is competent to decide on the enforcement proposal for the item.

In Croatia, all **immovables** must be **registered in the land register and cadaster**, which are two separate registers. In case of unregistered real estate (if, for instance, land register has been destroyed), the creditor, when filing the enforcement proposal, only has to indicate where the real estate is located, its name, boundaries and area or other information necessary for its identification. There is no investigative duty of the court with regard to such real estate.

**The creditor has to present an extract from the land register**, which is a public, electronically accessible book, in order to prove the ownership of the debtor.

The enforcement is performed through **noting the enforcement in the land register**, appraisal, sale of immovable items and satisfaction of creditors. In case of enforcement against unregistered real estate, instead of noting the enforcement in land register, the court seizes unregistered real estate and publishes the inventory on court's notice board and in the Official Gazette of the Republic of Croatia.

In principle, enforcement on immovable property cannot be ordered for claims, whose amount does not exceed 20,000 kunas (about 2,600 euros). In case the claim is higher than that, **enforcement on immovable property cannot be ordered** by the court if it would disturb the fair balance between the interests of the debtor and the interests of the creditor, taking into account, among others, whether there are other means to settle the claim or whether the real estate has been used by the debtor for housing purposes.

In accordance with the law, the debtor does not have a right to propose to the court to grant the enforcement on his or her other immovable or some other object of enforcement.

In case the **ownership of the immovable is changed** during the enforcement procedure, such change does not obstruct the continuation of the enforcement procedure against the new owner as debtor. All previously completed enforcement actions shall remain valid and the new owner, during further enforcement, cannot exercise procedural steps which could not be exercised by the previous owner.

After logging the enforcement recording in the land register, **the creditor for whose credit the enforcement is assigned later** on the same real estate is included in the already started procedure of enforcement.

**Real servitudes, real encumbrances and the rights of construction** on real estate do not elapse by the sale of the attached real estate. On the other hand, **personal servitudes** elapse by the sale of the attached real estate, unless the holders of those rights agree with the buyer otherwise. However, personal servitudes do not elapse provided they are recorded in the land register prior to the right for the settlement of which the enforcement procedure is ongoing.

The **lease contract** on real estate does not elapse by the sale of real estate, providing the contract was registered in the land register prior to gaining the right of pledge or the right to settlement for which the enforcement is proposed.

The court, which is in charge of enforcement against real estate, can provide the person interested to buy the real estate with a **permit to observe the immovable**.

In order to **prevent damage on the real estate**, enabling evaluation, observation and protection, the court is entitled to the following: temporary displacement of the real estate from the debtor and other persons; giving the real estate under guarding to the creditor or other third person; other measures necessary for the protection of the real estate, or for the performance of enforcement without any obstacles. The court is entitled to fine the persons who unable or obstruct the enforcement process.

There are rules with regard to **real estate that cannot be attached**. These rules apply, for instance, to agricultural land and the farm buildings of the farmer as much as he or she needs them for his or her own livelihood and for the livelihood of his or her family members and other persons who he or she is legally obliged to support. However, if the farmer established mortgage on the real estate and does not repay the credit, the real estate can be sold in the enforcement procedure as well.

The **value of the real estate** is determined by a court on the basis of expert evaluation after a hearing of parties, taking into account mortgages and other rights of third persons.

Every person who has the right to be paid from the price of the real estate and who according to the order has priority in relation to the creditor, may propose the termination of enforcement, if the ascertained value of the real estate cannot cover the amount of the claim of the creditor.

Real estate is sold by e-auction and direct settlement, i.e., direct sales contract with the buyer upon consent of the debtor and the creditors.

The e-auction is exercised by the **Financial Agency (FINA)** on court order.



The **conditions for sale** are made known on FINA's website. The creditor can publish the document on sale in the media (e.g., in the local newspaper) on his or her own expenses.

The document on sale has to be published at least 60 days prior to sale of the real estate.

The initiative for a **sale by direct agreement** is taken by the parties and the creditors secured by pledge.

Certain **persons are exempted from buying attached real estate**: the debtor, the judge, any person who exercises official duty in the procedure of sale (e.g., the evaluator of the real estate) or any other person who according to the law cannot acquire the right of ownership on the real estate, which is the object of enforcement.

Potential buyers must deposit a **guarantee**. After the buyer deposits with the court the full price of sold real estate, the guarantees that had been deposited by other bidders shall be returned.

The e-auction takes place even if only **one bidder participates**. In such cases the court may not postpone the auction upon the proposal of the party or the mortgage creditors.

There are **two sessions of the e-auction**. In the first session, the real estate cannot be sold at a price that is lower than 4/5 of its value as appraised. In the second session, the real estate cannot be sold at a price that is lower than 3/5 of its value as appraised. Bidding takes 10 working days. The second session takes place as soon as the deadline of 10 days for bidding at the first session has expired.

In case that the real estate is not sold at the second session of the e-auction, the court terminates the enforcement procedure against the debtor's real estate. In that case the creditor may propose the establishment of a pledge on the real estate in his or her favor in order to secure his or her claim.

**The deadline** within which the purchaser is obliged to **deposit the purchase price** may not be longer than six months from the date of sale, regardless whether the price is paid in a lump sum or in instalments.

If the purchase price is not paid within the set time limit, the court shall declare the sale as invalid and set a **new sale**, under the conditions set for the sale that was pronounced invalid. The guarantee deposit shall be used to pay the cost of the new sale and settle the difference between the purchase price achieved at the previous and the new sale.

In order to **handover the real estate to the buyer**, the court issues an order concluding that the real estate has been sold to the buyer, determining that the right of the property of the buyer shall be registered in the land registry and that certain encumbrances on the real estate shall be erased from the land registry, and ordering the debtor to leave the premises.

In case the debtor does not voluntarily leave the premises, the buyer is entitled by





court order to evict him or her.

**The order of priority for the creditors to be paid from the sale revenues** is the following:

- expenses of the enforcement procedure;
- real estate sales tax or VAT, which have fallen due in the last year;
- claims of creditors with pledges, by the order of priority, depending on the time a creditor gained pledge on the sold real estate;
- claims of the creditor, who proposed the enforcement;
- rewards for personal servitudes and other rights, which are terminated through the sale of real estates.

Any person having the **priority right of purchase** registered in the land registry has priority over the best bidder providing that in three days after the conclusion of the bidding he or she states that he or she is to purchase the real estate under the same conditions.

If there are **more creditors with the same order of settlement**, they will be settled proportionally in their amount, if the amount earned through the sale of the real estate is insufficient for complete settlement.

The **settlement of the creditors can be disputed** in court.

### III.6 Enforcement against wages and other permanent pecuniary income

Upon the request of a creditor, **the Croatian Pension Insurance Institute** is obliged to provide information within eight days whether a natural person is an insured person with the Institute, under what grounds (employment, freelancing, trade or an independent agricultural activity) and whether he or she receives pension, disability payment or any other regular receipts on which it keeps records. **The employer of a debtor** is obliged to inform a creditor, not later than within 8 days from his or her request, whether the debtor's salary is paid on a bank account or in some other way.

The employer is obliged to inform the court on the **termination of the employment** and on the new employer of the debtor, if he or she knows the new employer. In case that the previous employer does not know who is the debtor's new employer, the previous employer informs the court.

The employer can be held **liable** for payment of the instalments that ought to be paid, but were not deducted from the debtor's salary. He or she is liable both for the instalments and other damages incurred to the creditor due to the fact the employer did not act according to the enforcement order.

The debtor is also entitled, by way of a legalized document, to give his or her **consent**, in order to settle the claim, for sequestration of a part of his or her personal incomes and direct payment to the creditor, providing the legal provisions with regard to the maximum amount that can be deducted from the income are respected.

There are **limitations** with regard to the enforcement against personal incomes



(wages and other permanent pecuniary income); this is the reason why some personal incomes or parts of personal incomes cannot be sequestered. Certain debtor's incomes are fully exempted from sequestration, e.g., social assistance; rewards, due to bodily damage according to the provisions of disability guarantee; incomes based on temporary unemployment; children's allowances; student's scholarship and assistance to students and pupils; invalidity allowances; maintenance (alimony); benefits for childbirth, child, large family and child care; scholarships; disability benefits; funds obtained to eliminate or mitigate the consequences of natural disasters or damage in the fields of agriculture, forestry; etc.

As to the other salary of the debtor there are restrictions (limitations) with regards to enforcement. That means that certain percentage of the personal incomes is exempted from sequestration. The debtor has a right to freely dispose of 2/3 of his or her regular monthly salary. If his or her salary is lesser than the average net salary in Croatia, the debtor has a right to freely dispose of 3/4 of his or her regular monthly salary. However, when enforcing maintenance claims (alimony), the debtor must, in principle, retain 1/2 of the average net salary in Croatia or, if his or her salary is lesser than the average net salary, 1/2 of his or her salary.

### III.7 Attachment under the debtor's debtor

The court **where the debtor is domiciled** is competent to decide on the enforcement proposal for attachment on the debtor's debtor. The creditor is obliged to specify the claim, which is the object of enforcement, in the request for enforcement.

The debtor's debtor does not have a right to object or to **appeal** against the attachment order. The creditor gains the right of pledge on the attached claim.

In case there are more creditors, **the priority** of the right of pledges is organized according to the day of the service of the attachment order to the debtor's debtor. If several creditors have acquired a pledge on the same day, their pledges have the same order.

Upon the creditor's proposal the court orders the debtor's debtor to give a **statement** on whether and at what extent an amount is owed to the debtor, whether he or she is ready to settle the debt, and also if his or her obligation for paying the debt is conditioned upon fulfillment of any other obligation. The court sets a deadline for such statement.

The debtor's debtor shall be held **liable** to the creditor for the damage caused by his or her non-declaration or for providing inaccurate or incomplete declaration.

The debtor's debtor will be invited to **deposit** the obligated amount of money **to the court or notary public**.

In case **more creditors** claim the enforcement for the same debtor's claim the priority rule applies, i.e., the amounts are transferred based on the days of attachment. If several creditors have acquired a pledge on the same day, their pledges have the same order and they have to be settled proportionally.

### III.8 Enforcement against shares

The **court competent** to decide on the enforcement proposal for attachment on the debtor's shares is the court on whose territory the seat of the company, in which the debtor has his or her shares, is located. If the debtor's shares in the company are in form of dematerialized securities, the court where the debtor is domiciled is competent to decide on the enforcement proposal for attachment of these dematerialized securities.

The creditor is obliged to specify such shares in the request for enforcement. However, if the debtor owns dematerialized securities, it is sufficient that the creditor proposes to the court to pass an order to provisionally attach all securities entered into all accounts of the debtor with the **Central Depository & Clearing Company Inc.** at the owner's position registered with the issuer.

The attachment on the debtor's shares is effectuated through hand over of the enforcement order to the institution which keeps the register of shares and through noting of enforcement in that register. There are two registers of shares. If dematerialized securities are the object of enforcement, the court serves the enforcement order to the Central Depository & Clearing Company Inc., which keeps the central register of dematerialized securities. If the object of enforcement is not dematerialized securities, the court serves the enforcement order to the company which keeps the book of such shares.

The creditor gains the right of pledge on the attached shares.

The **registration in the register of shares** (i.e., central register of dematerialized securities and companies register) is obligatory in order to effectuate the attachment.

Dematerialized securities, that can be traded **at the stock exchange**, are sold through a broker selected by the court. On the other hand, an attached share, which is not dematerialized security, can be sold **at an auction or by direct agreement**. There is no special provision on the sales **price**, but rules on enforcement of movable items apply *mutatis mutandis*. Hence, valuation shall be done in accordance with the provisions on valuation of movable assets.

### III.9 Other attachment procedures

The court of the debtor's domicile is competent to decide on the enforcement proposal for **attachment of patent, the usufruct or any similar property right of the debtor**. Rules on enforcement against movable items apply *mutatis mutandis*.

### III.10 Handing over movable assets

The **court in whose territory the movable items are situated** is competent to decide on the enforcement proposal with the purpose of handing over of one or more specific items, or with the purpose of delivery of certain amount of substitute items and for the implementation of the enforcement.

In case of **items which are with debtor or with a third person**, who is willing to hand them over to the judicial officer, the judicial officer takes them away from the debtor and hands them over to creditor. If the third person does not want to hand over the items, the creditor may propose to the court to transfer the debtor's claim against the



third person for handover of items.

If the **items were not found with the debtor or the third person**, the creditor may propose to the court to evaluate their value and to order the debtor to pay the amount of their value to the creditor.

### III.11 Enforcement in reinstatement of employee to work

**The court in whose territory the employer has its seat** is competent to decide on the enforcement proposal based on an enforceable title forcing the employer to reinstate the employee to work, or to assign him or her to an appropriate position.

There is a **6-months deadline** with regard to the enforcement request for reinstatement to work by the employee. The deadline starts running on the day the creditor could first lodge the enforcement proposal.

The creditor can request the court the issuance of the **decision forcing the debtor to pay him or her monthly salaries** which become claimable, from the day when the decision became final until the day of return to work.

### III.12 Eviction

**The court covering the territory of real estate** has competence to decide on the enforcement proposal for eviction and hand over the real estate and for the commission of enforcement.

The law sets certain **deadlines** with regard to the eviction procedure. There is a minimum deadline of 8 days between the service of the enforcement order to the debtor and the eviction.

There are no special procedures in case **juvenile persons** are also **to be evicted** from real estate. However, in such cases the judicial officer usually performs the eviction in cooperation with the center for social work.

Upon the request of the judicial officer, the creditor provides the required **workforce and the transportation means** with the purpose of completing the enforcement.

**Movable items** which have to be removed from the real estate are handed over to the debtor or, if he or she is not present, to an adult member of his or her family. If nobody is present during the eviction, those movable items shall be handed over to the creditor or to another person for custody.

The debtor is liable for the **costs of custody**. In case the items cannot be handed over to the debtor or the debtor refuses to pay the custody costs, the items will be sold through an auction.

### III.13 Enforcement of obligations to act, refrain from acting or suffer action

#### III.13.1 Enforcement of the decision for division of items

If the manner of division has not been determined in the enforcement title or if the parties have not reached an understanding on it, the court before which the proceedings are running decides, in compliance with the rules on property law, whether the **division** shall be physical or by sale. The division will be carried out by



sale if it is determined that the physical division, determined in the enforcement title, is not possible or is possible only by significant decrease of its value.

The **costs** of applying the enforcement are covered by all co-owners proportionally with the value of portions belonging to them over the item in their co-ownership. Any party that has caused special costs shall compensate them to the parties who have sustained such costs.

### **III.13.2 Enforcement of the decision in which the debtor has a duty to perform certain action, tolerate certain actions, or to omit certain actions**

The **court** on whose territory the debtor has to fulfill an obligation, arising from the enforceable title, is competent to decide on the enforcement proposal, if the debtor (based on the enforceable title) has a duty to perform, tolerate or omit certain action.

The enforcement for the settlement of an obligation for **action which can be performed by anyone** is carried out in the manner, that the court authorizes the creditor to perform the action on the debtor's costs by himself or herself or entrust another person with such action. In the proposal for enforcement the creditor can propose that the court orders the debtor to deposit in advance a certain amount necessary for the payment of the costs that will arise from the performance of the action by the other person or by the creditor. The amount of the sum will be freely determined by the court, taking into consideration, if possible, an estimate of costs of a person authorized to perform such actions.

If the **action** assigned by the enforceable title **may be completed only by the debtor**, the court sets a deadline to the debtor for fulfilling the obligation, with a warning that in case of non-compliance he or she shall be fined. If the debtor fails to fulfil the obligation within the set deadline, the court shall, on the creditor's proposal, impose a monetary fine on the debtor.

Upon the creditors proposal the court orders the debtor to deposit with the court an amount of money for **compensation of damage** which the creditor may suffer by further behavior of the debtor in contradiction with his or her obligation for tolerance and omission.

If the enforcement is completed based on an enforceable title, issued upon a claim due to obstruction of possession, or if the debtor has voluntarily fulfilled his or her obligation, and after this **the debtor obstructs the possession again** (similarly to the previous obstruction), the court can enforce the same enforceable title once again upon the creditor's proposal.

### **III.14 Sequestration of goods**

In Croatia, the **judicial officer** is involved in the activity of sequestration of goods. A public commission agent is also entitled to safe keep attached movable items, which have not been sold yet in the enforcement procedure.

The sequestration concerns **movable tangible goods**.

The sequestration in the hands of a sequester can be **ordered by a court decision**, it



is not possible neither on a voluntary basis nor on a contractual basis. The sequestration in the hands of a judicial officer can be ordered in case of counterfeit as well. As a sequester, the judicial officer can place the sequestered goods under seal.

### III.15 Enforcement of foreign enforceable documents from non-EU States

Both enforceable and non-enforceable decisions issued in a non-EU State **cannot be enforced directly in Croatia**, without any recognition proceedings.

The formalities for the recognition of court decisions issued in non-EU States are **identical whatever the court decision** (judgements, orders for payment etc.). An official certificate of finality and enforceability issued in the country of origin has to be attached to the request for enforcement of foreign enforceable titles.

Croatian **municipal and commercial courts of first instance** are competent for requests for recognition of court decisions issued in a non-EU State. The intervention of a lawyer is not compulsory in the proceedings for the recognition. The court, when deciding upon the enforcement proposal based on a foreign decision, in an **ex parte procedure** checks whether the foreign decision fulfills the conditions for recognition in Croatia.

During the proceedings for the recognition of the decision issued in a non-EU State the court checks the **conformity to the international order in force** in Croatia, including the **principle *audiatur et altera pars***, rules on **jurisdiction of Croatian authorities**, on ***lis pendens*** and on ***res iudicata*** (if there are concurring proceedings or a court decision *in eadem re* in Croatia). In the following cases a foreign court decision cannot be recognized in Croatia: if the opposing party could not participate in the foreign procedure, upon objection of the opposing party; in case of exclusive jurisdiction of a Croatian court; if the foreign judgment is irreconcilable with a Croatian judgment involving the same cause of action and between the same parties; if such recognition is contrary to the public policy (*ordre public*) of the Republic of Croatia. During the proceedings for the recognition of the court decision issued in the non-EU State, the court cannot change the decision.

The opposing party can file an **appeal** against an order on recognition of a foreign decision within a deadline of 15 days. The courts of appeal decide on the appeal. When the decision recognizing a decision from a non-EU State is contested, the intervention of a lawyer is not necessary.

In Croatia, there are **no many requests** for enforcement of foreign enforcement titles, and there is no special statistical data on the duration of such proceedings.

## PART IV: ENFORCEMENT COSTS

### IV.1 The costs of enforcement

As enforcement in Croatia is in principle court-based, enforcement costs consist of **court fees**. However, as Croatian **notaries public** are exclusively competent to order enforcement on the basis of trust-worthy documents, their fees have to be taken into account as well. The **Financial agency** (FINA) is exclusively competent for attachment

on the bank account of the debtor and for conducting of e-auctions. Its fees are also relevant for general enforcement costs. Despite their involvement in enforcement is not mandatory, **attorneys** are very often hired by the creditors, so their fees also substantively influence the amount of enforcement costs.

All enforcement expenses are **firstly paid by the creditor**. Once they occur, the creditor must demand reimbursement of the enforcement costs from the debtor and the court or notary public (in case of enforcement order on the basis of a trust-worthy document) orders such reimbursement to the creditor. At the end **the debtor is obliged to cover all the enforcement costs**. However, if the debtor is insolvent, in case of an ineffective (unsuccessful) enforcement, the creditor cannot successfully recover the enforcement fees from the debtor, except in insolvency proceedings.

The fee for initiation of the proceedings and, in case of notarial payment order, “foreseeable” costs (costs of service, costs of issuing of certificate of enforceability) have to be prepaid.

The creditor is not specially informed in advance on the likely costs of the fees involved. The enforcement costs are **dictated by law and regulation**. In principle, the **fees are proportional based on amount of the claim**. The fee schedule is obligatory and non-negotiable. 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 under the conditions as agreed through a contract between the judicial officer and the creditor.

In principle, the debtor will pay a fee for filing an appeal by court. The debtor is usually not informed in advance on the likely costs or the fees involved. The debtor can obtain an exemption from the enforcement fees payment obligation only in accordance with the law on free legal aid. In that case, the State covers these fees.

In principle, the enforcement can be ordered only after the term for voluntary fulfillment has expired.

In Croatia, as already explained, the enforcement is divided in **two phases: ordering of enforcement** (by the court or notary public) **and carrying out of enforcement** (by court, Financial Agency). The costs include **initial fees** (i.e., court or notary fee) for filing the enforcement proposal before the court or the notary, **attorney’s fees** (if the creditor uses his or her services) and **FINA’s fees** (in case of attachment on the bank account of the debtor)<sup>17</sup>. All fees **depend on the value of the claim**, in principle according to the following tables (specific rules are rather complicated):

Court fees		
claim (in kunas; 1 EUR is about 7,5 kunas)		fee (in kunas)
from	to	
0,00	3.000,00	100
3.000,01	6.000,00	200
6.000,01	9.000,00	300

<sup>17</sup> For e-auctions there is a special digital certificate issued by FINA, which has to be paid to FINA. The price list is available on: <https://www.fina.hr/cijene>.



9.000,01	12.000,00	400
12.000,01	15.000,00	500

<b>Attorney's fees</b>		
<b>claim</b> (in kunas; 1 EUR is about 7,5 kunas)		<b>fee</b> (in kunas)
from	to	
0,00	2.500,00	250
2.500,01	5.000,00	500
5.000,01	10.000,00	750
10.000,01	100.000,00	1.000
100.000,01	250.000,00	2.500
250.000,01	500.000,00	5.000

<b>FINA's fees</b> in case of attachment on the bank account of the debtor		
<b>claim</b> (in kunas; 1 EUR is about 7,5 kunas)		<b>fee</b> (in kunas)
from	to	
0	199,99	65
200	999,99	85
1.000,00	4.999,99	175
5.000,00	9.999,99	475
10.000,00	99.999,99	1.245
100.000,00	499.999,99	2.000
500.000,00		5.000

In Croatia, 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.

The creditor can apply for **legal aid** for enforcement cases in accordance with the law on free legal aid. In that case, the State covers the costs of proceedings.

## **PART V: LINKS, LITERATURE AND SOURCES**

### **Links to national legislation** (only in Croatian)

Enforcement Act (OG No. 112/12, 25/13, 93/14, 55/16 and 73/17), available on: <http://www.propisi.hr/print.php?id=11912>

Act on the Enforcement of Monetary Assets (OG No. 68/18, 02/20, 46/20, 47/20), available on: <http://www.propisi.hr/print.php?id=10503>

Civil Procedure Act (OG No. 3/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19), available on: <http://www.propisi.hr/print.php?id=11532>

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