



# Czech Republic

## Narrative National Report

**Author:** JUDr. Juraj Podkonický, Ph.D., Judicial officer,  
Prague

“The content of this report represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.”





Table of Contents

**PART I: LEGAL FRAMEWORK ..... 4**

    I.1 Legislation affecting civil enforcement..... 4

    I.2 Enforceable titles..... 5

    I.3 Service of documents to parties and third parties ..... 6

    I.4 Legal remedies, appeal and objection..... 9

    I.5 Postponement, suspension and termination of enforcement ..... 10

    I.6 Counter enforcement ..... 12

    I.7 Objects and exemptions on enforcement ..... 12

    I.8 (Court) penalties and fines ..... 14

    I.9 Access to information on the domicile and assets of the debtor ..... 15

**PART II: ORGANIZATION OF ENFORCEMENT..... 19**

    II.1 The status of the judicial officer ..... 19

    II.2 Supervision over enforcement ..... 21

    II.3 Access to the premises..... 22

    II.4 Obstructing the judicial officer from carrying out enforcement ..... 23

    II.5 Time of enforcement ..... 23

    II.6 Mediation ..... 24

**PART III: ENFORCEMENT PROCEDURES ..... 24**

    III.1 Initiation and end of the enforcement procedure ..... 24

    III.2 Enforcement against movable assets to settle pecuniary claims ..... 27

    III.3 Attachment on the bank account of the debtor..... 30

    III.4 Enforcement against savings deposits and current accounts..... 32

    III.5 Enforcement on immovable property..... 32

    III.6 Enforcement against wages and other permanent pecuniary income ..... 35

    III.7 Attachment under the debtor’s debtor..... 37

    III.8 Enforcement against shares ..... 38

    III.9 Other attachment procedures ..... 39

    III.10 Handing over movable assets ..... 40

    III.11 Enforcement in reinstatement of employee to work ..... 41

    III.12 Eviction ..... 41

    III.13 Enforcement of obligations to act, refrain from acting or suffer action..... 43

    III.14 Sequestration of goods ..... 44





|  |           |
|--|-----------|
| III.15 Enforcement of foreign enforceable documents from non-EU States ..... | 44        |
| <b>PART IV: ENFORCEMENT COSTS.....</b>                                       | <b>44</b> |
| IV.1 The costs of enforcement .....  | 44        |
| <b>PART V: LINKS, LITERATURE AND SOURCES .....</b>                           | <b>48</b> |



## PART I: LEGAL FRAMEWORK

### I.1 Legislation affecting civil enforcement

In 2001 the Chamber of Deputies of the Czech Republic (the Chamber of Deputies) passed Act No.120/2001 Coll. on Judicial Officers and the Enforcement Activity<sup>1</sup> (hereinafter the Enforcement Code) and on the amendment of other laws, which has been amended a total of 50 times to date. The passing of the Enforcement Code was the result of lack of efficiency and flexibility of the courts and the lengthy nature of enforcement proceedings. At that time, court judgments were virtually unenforceable and the vast majority of creditor rights were not satisfied. Therefore, the Enforcement Code introduced the institution of the judicial officer, which is based on the principle that any activity of a judicial officer begins when court proceedings have come to an end<sup>2</sup>. This truly “ground-breaking” law introduced in the Czech Republic a revolutionary novelty and a new legal profession – a liberal profession of judicial officers, who were to enforce court decisions beside the public authority exercised by court clerks (court employees). The law followed the example of the French Civil Law with regards to execution.

In addition to the Enforcement Court, the execution (enforcement) of judicial decisions is provided for in Act No.99/1963 Coll., the Civil Procedure Code<sup>3</sup>, which contains comprehensive provisions regulating the execution of judicial decisions. This legislation is subsidiary to the Enforcement Code, describing methods of enforcement that are not provided for in the Enforcement Code.

Other laws relating to the execution (enforcement) of judicial decisions include namely the following:

Act No.119/2001 Coll. setting rules for cases of concurrent executions of decisions<sup>4</sup>, which sets out rules for concurrent executions of decisions.

Act No.292/2013 Coll. on special judicial proceedings<sup>5</sup>, which regulates non-adversary proceedings. With regard to enforcement and execution of judicial decisions, it specifically regulates their relations to testamentary proceedings.

Act No.182/2006 Coll. on insolvency and methods of its resolution (the Insolvency Act)<sup>6</sup>. This Act contains comprehensive provisions on insolvency proceedings. With regard to enforcement and execution of judicial decisions, it specifically regulates their concurrence with insolvency proceedings and the impacts of insolvency proceedings on the course of enforcement.

---

<sup>1</sup> Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>2</sup> Explanatory Memorandum to the Government proposal to the Act on Judicial Officers and the Enforcement Activity.

<sup>3</sup> Act No.99/1963 Coll., the Civil Procedure Code.

<sup>4</sup> Act No.119/2001 Coll., setting rules for cases of concurrent executions of decisions.

<sup>5</sup> Act No.292/2013 Coll., on special judicial proceedings.

<sup>6</sup> Act No.182/2006 Coll., on insolvency and methods of its resolution (the Insolvency Act).



Act No.89/2012 Coll., the Civil Code<sup>7</sup>, as amended, which is a comprehensive codification of substantive civil law. With regard to enforcement and execution of judicial decisions, it specifically regulates the scope of common matrimonial property, real property and its co-ownership, mortgage/pledge and its establishment, servitudes to immovable property, etc.

Act No.90/2012 Coll. on commercial companies and cooperatives (the Business Corporations Act)<sup>8</sup>. With regard to enforcement and execution of judicial decisions, it specifically regulates matters regarding termination of the debtor's participation in a commercial company or cooperative in case of their sale in auction.

Act No.280/2009 Coll., the Tax Code<sup>9</sup>, regulates the procedure applied by tax administrators and the rights and obligations of persons liable to tax and third parties in relation to tax administration. With regard to enforcement and execution of judicial decisions, it specifically regulates issues relating to the concurrence of enforcement and tax enforcement or the possibility of enforcing tax arrears through a judicial officer.

Act No.500/2004 Coll., the Administrative Procedure Code,<sup>10</sup> sets out the procedure applied by executive authorities and local self-administration authorities when they exercise their powers in the field of public administration. With regard to enforcement and execution of judicial decisions, it regulates the possibility of enforcing administrative decisions through a judicial officer.

Act No.40/2009 Coll., the Criminal Code<sup>11</sup>. This is the fundamental legislation on substantive criminal law. In this case, the enforcement and execution of judicial decisions is related to the criminal offence of plotting in public auction and the criminal offence of harmful or preferential treatment of a creditor.

Act No.141/1961 Coll., on Criminal Procedure (the Criminal Procedure Code)<sup>12</sup>. This Code comprehensively regulates procedural criminal law and standards of criminal proceedings. As regards enforcement and execution of judicial decisions, it regulates, for instance, attachment of goods in criminal proceedings and the possibility of its sale in the enforcement process.

## 1.2 Enforceable titles

In the Czech Republic enforcement titles are mostly issued in civil procedure and have the form of a judgment, ruling, payment order, electronic payment order, European Payment Order, bill of exchange and cheque payment order. These decisions may be issued during the court procedure, but also during pre-trial procedures, in the form of a ruling on the approval of compromise or of an interlocutory injunction. An enforcement title may be also issued by the court during enforcement proceedings

---

<sup>7</sup> Act No.89/2012 Coll., the Civil Code.

<sup>8</sup> Act No.90/2012 Coll., on business companies and cooperatives (the Business Corporations Act).

<sup>9</sup> Act No.280/2009 Coll., the Tax Code.

<sup>10</sup> Act No.500/2004 Coll., the Administrative Procedure Code.

<sup>11</sup> Act No.40/2009 Coll., the Criminal Code.

<sup>12</sup> Act No.141/1961 Coll., on Criminal Procedure (the Criminal Procedure Code).



under the Enforcement Code<sup>13</sup> (such as a ruling determining the enforcement costs).

Further titles are listed in the Enforcement Code<sup>14</sup>. They include enforceable judicial officer's decisions if they grant a right, impose an obligation or affect property. In cases where the parties choose to use arbitration, the enforceable arbitral award also becomes an enforceable title. An enforcement title that used to exist since 2001, i.e., from the introduction of the institution of judicial officers, was also a writ of enforcement or a notarial record with consent to enforcement, drafted in accordance with a special law, i.e., with the Enforcement Code or the Notarial Code<sup>15</sup>. The power granted to judicial officers to draft a writ of enforcement or a notarial record with consent to enforcement was cancelled by the amendment of the Enforcement Code, which was enacted in 2013. Hence, since 2013, this title can solely be enforced by the notaries. Enforcement titles also include enforceable decisions of public or self-administration authorities and other enforcement titles of public authorities, as well as titles issued in proceedings conducted under the Administrative Procedure Code<sup>16</sup>. Last but not least, enforcement titles also include other enforceable decisions and approved compromises that may be enforced under the law.

Other enforcement titles include enforceable decisions of arbitration commissions and compromises approved by them, enforceable decisions of public notarial offices and agreements approved by them, or decisions of bodies of the European Union.

Decisions (judgments, rulings, payment orders, electronic payments order, European Payment Orders, bill of exchange and cheque payment orders, etc.) that do not impose a payment obligation are enforceable as soon as they become final and effective and the debtor fails to fulfil within the stipulated time limit his/her obligation, as specified in the decision. In most cases, the debtor has to fulfil such an obligation within three days after the final and effective date, unless a longer period is determined in the decision (e.g., 15 days for eviction from the apartment). Thereafter, the decision becomes enforceable upon the debtor's failure to fulfil his/her obligations. The confirmation of enforcement is attached to the decision by the authority that has issued the decision (e.g., the court, judicial officer) or, in case of compromises and agreements, by the authority that has approved them.

### **1.3 Service of documents to parties and third parties**

#### **1.3.1 Service of court's documents**

In Czech law, the service of documents is primarily governed by the Civil Procedure

---

<sup>13</sup> Section 89 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>14</sup> Section 40 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>15</sup> Act No.358/1992 Coll., the Notarial Code.

<sup>16</sup> Act No.150/2002 Coll., the Administrative Procedure Code.

Code in all matters concerning judicial decisions<sup>17</sup>. According to the Civil Procedure Code, documents are served by court to the parties during hearings or during other judicial acts, namely on any occasion that the court is in direct contact with the parties or their representatives. The service is always recorded in the protocol and the participants sign it. A document that cannot be served during hearing is served via a public data network to the data box notified by the addressee to the court if he/she has applied for or consented to such method of service of documents.

If it is not possible to serve a document to the data box, the court shall serve it upon the addressee's request to the address in the Czech Republic that is stated by him/her in his/her submission or other act taken vis-a-vis the court or which is notified to the court as the address to which he/she should or may be served documents. At the same time, a court document may be served to the addressee at any other place in the Czech Republic where he will be intercepted.

If a document cannot be served to the data box or to the address requested by the addressee, it will be served by the court through its representative. The Civil Procedure Code<sup>18</sup> specifies the method of service to natural persons, businessmen, persons serving a prison sentence, legal entities, notaries, attorneys-at-law, judicial officers, insolvency trustees, patent agents, the state (state institutions), cities, municipalities, etc.

The following persons may be used by the court for serving:

- a) court employees,
- b) justice guard authorities,
- c) judicial officers, and
- d) operators of postal services.

The Civil Procedure Code further lists other process serving authorities<sup>19</sup>, such as the Prison Service of the Czech Republic, the Ministry of Interior of the Czech Republic, and the Ministry of Justice of the Czech Republic, as well as the conditions under which and the persons and entities to which such authorities are entitled to serve documents.

### **1.3.2 Service of administrative decisions**

Administrative decisions, i.e., decisions issued by executive authorities, local self-administration authorities (municipalities, cities, regions) and other authorities, natural persons and legal entities exercising public administration powers are served

---

<sup>17</sup> Sections 45-50) Act No.99/1963 Coll., the Civil Procedure Code.

<sup>18</sup> Section 46b) Act No.99/1963 Coll., the Civil Procedure Code.

<sup>19</sup> Section 48 paragraph 2 Act No.99/1963 Coll., the Civil Procedure Code.

in accordance with the Administrative Procedure Code<sup>20</sup>.

The service of documents is then governed by Sections 19 to 23 of the Administrative Procedure Code, according to which a document shall always be served by the administrative authority that has executed it. Administrative authorities serve documents mainly through the public data network to the data boxes in cases specified by the law.

If the administrative authority fails to serve a document to the relevant data box via the public data network, it can be served by the public authority itself. In cases stipulated by the law, the document may be served via the competent municipal authority or the Police of the Czech Republic depending on the place of service of the document. A document that is served by the body of a municipality in its proceedings may be served by the Municipal or City Police.

---

<sup>20</sup> Act No.500/2004 Coll., the Administrative Procedure Code.



## **I.4 Legal remedies, appeal and objection**

### **I.4.1 Appeal**

A party to the proceedings – the creditor or the debtor – may appeal a decision of a district or regional court in cases permitted by the law; however, the possibility to appeal is limited by the amount of monetary performance. According to the Civil Procedure Code, appealing a judgment when the monetary performance amount (excluding appurtenances) does not exceed CZK 10,000 (EUR 400) is inadmissible.

It is important to note that an appeal directed solely against the reasoning of the decision is inadmissible. Furthermore, it is inadmissible to appeal a decision of a procedural nature, such as a ruling regulating the conduct of judicial or enforcement proceedings, a ruling requesting the party to supplement or correct their submission, or a ruling waiving a missed deadline, determining that the service of a decision is ineffective, imposing an obligation to prepay the costs of evidence, overturning a payment order, etc.

The appeal must be filed within 15 days after the service of a written counterpart of the appealed decision by the court or the judicial officer. In case a corrective ruling (relating to the verdict of the decision) has been issued, the 15-day time limit shall commence from the final and effective date of the corrective ruling.

Nevertheless, an appeal may also be filed in time after the expiration of the 15-day time limit, if the court or the judicial officer has incorrectly instructed the party about the possibility to file an appeal. If the decision does not include any instruction regarding appeal or contains an incorrect instruction to the effect that it is inadmissible to appeal the decision, the party may file an appeal within 3 months from the service of the decision.

The party (the appellant) must always specify the appealed decision, the extent to which the decision is appealed, the reason why he/she considers the decision (or the procedure applied by the court or the judicial officer) incorrect and what he/she seeks in the appeal. Specific conditions of an appeal are listed in the Civil Procedure Code<sup>21</sup>.

If the party files the appeal in time, the decision of the court or the judicial officer will not become final and effective until the issuance of a decision on the appeal by the competent court of appeal.

### **I.4.2 Objection of prejudice**

According to the Enforcement Code, a judicial officer shall be excluded from the enforcement procedure if, due to his/her relation to the case, the parties to the enforcement process or their representatives, there is a reason to question his impartiality. It is important to note that the circumstances concerning the judicial officer's conduct of the enforcement procedure do not constitute grounds for his/her exclusion from the procedure.

---

<sup>21</sup> Section 205 paragraphs 2, 3, 4, Act No.99/1963 Coll., the Civil Procedure Code.



The parties to the enforcement procedure have the right to express their opinion on the person of the judicial officer in any pending procedure, and must be duly instructed by the judicial officer about the possibility to file an objection of prejudice. A party is entitled to raise an objection of prejudice not later than within 8 days after the service of the notice of commencement of the enforcement. Later on, a party may raise such an objection after he/she becomes aware of the grounds for exclusion of the judicial officer or if the grounds for exclusion occur later. A party may also raise the objection of prejudice at a later date, provided that the judicial officer has failed to provide to him/her any instruction about his/her right.

The objection of prejudice must include the judicial officer's name and specify all circumstances based on which the judicial officer is deemed prejudiced. Objections of prejudice are resolved by the enforcement court; therefore, the judicial officer shall promptly submit the matter to the enforcement court for decision. Although the debtor's objection of prejudice has no suspensive effect, the judicial officer may carry out in the enforcement procedure only actions that cannot bear any delay.

If the court decides to exclude the judicial officer from the enforcement procedure, such procedure shall further be conducted by a new judicial officer proposed by the creditor.

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

### **1.5.1 Postponement of enforcement**

A motion to postpone enforcement may be lodged by the debtor before the judicial officer who conducts the enforcement procedure. In his/her motion for postponement, the debtor must describe all facts and documents proving his/her allegations. Upon submission of a motion to postpone enforcement, the enforcement procedure shall be interrupted under the law and the judicial officer may not take any actions to effectuate the enforcement until the issuance of a decision on the motion, with the sole exception of the debtor's arbitrary or evidently unsuccessful assertion of right or obstruction of law.

The judicial officer must decide on the motion to postpone enforcement within 7 days. If he/she does not grant the motion, he/she shall refer it to the enforcement court together with the enforcement file. The court must rule on the motion within 15 days. If the judicial officer (or the enforcement court) decides to postpone the enforcement, the period for which the enforcement will be postponed must always be specified. During the postponement period, the judicial officer may not carry out any actions to effectuate the enforcement, as noted above. Following the expiration of the postponement period, the judicial officer shall resume the enforcement procedure, even without a motion.

The enforcement court or the judicial officer may postpone the enforcement without a prior motion having been filed by the parties, in exceptional cases provided by the law, namely when it can be reasonably expected that the enforcement will be terminated.

### **1.5.2 Suspension of enforcement**

An ordered execution of a decision or enforcement may be suspended under the Civil Procedure Code<sup>22</sup> or the Enforcement Code<sup>23</sup>, particularly in the following cases:

- The enforcement has been ordered but the relevant decision (enforcement title) has not become enforceable yet (in cases where the decision was not served correctly by the court and the debtor was not notified of its existence).
- The decision constituting the basis of the enforcement was overturned or lost its effect after the order of enforcement, and was then overturned by the authority that has issued it (such as the court, health insurance company, social security administration etc.) upon a motion of a party.
- The termination has been proposed by the party that proposed the issue of the enforcement order. A creditor may terminate the enforcement procedure with or without cause at any stage. In such cases, the procedure shall be terminated and the creditor shall be ordered to reimburse the costs of the procedure. This is a so-called non-mandatory creditor right.
- The enforcement affects goods that are exempt from it by the law (see Chapter I.7),
- The course of the enforcement procedure indicates that the proceeds achieved by the enforcement will not be sufficient to cover its costs. In such case, the enforcement procedure is terminated (mostly) upon a motion of the debtor. This occurs, for instance, in a situation where the assets obtained in the enforcement procedure are disproportionately small compared to the enforcement costs.
- Upon a final and effective decision that the enforcement affects assets to which someone holds a right not permitting enforcement. In such case, the attached assets (such as movable assets) must be promptly released to the third party and struck out from the enforcement.
- A right granted by a decision has ceased to exist after the issuance of the decision.
- The enforcement has already taken place and is therefore terminated (reinstatement in the enforcement procedure is inadmissible under the law).
- The enforcement is inadmissible.

### **I.5.3 Termination of enforcement**

Under the Enforcement Code, there are two methods of termination of the enforcement:

- a) By suspension under Section 55 of the Execution Code.

---

<sup>22</sup> Section 268 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>23</sup>Section 55 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



b) By recovery of the claim, its appurtenances and enforcement costs.

### **I.6 Counter enforcement**

A system under which the debtor is entitled during the same enforcement procedure (or after the end of the enforcement procedure) to request the court to enforce a decision against the creditor in the original enforcement procedure (counter enforcement), is not provided by Czech law and not applicable.

On the other hand, the debtor may commence a new enforcement procedure against the creditor, provided that the debtor has a final, effective and enforceable enforcement title.

### **I.7 Objects and exemptions on enforcement**

The Civil Procedure Code<sup>24</sup> stipulates that some assets owned by the debtor may not be affected by enforcement, which means that such assets (movables and immovables) may not be sold during the enforcement procedure. Hence, if such assets have been affected by enforcement, i.e., if any such movable assets have been registered in the enforcement proceedings or the sale of such immovable assets has been ordered, the court or the judicial officer must suspend the enforcement in respect of those assets.

In particular, the following goods owned by the debtor or held in common matrimonial property by the debtor and his/her spouse are exempt from enforcement:

- Usual clothing items, including underwear and footwear.
- Common household furnishings and utensils, particularly the bed, table, chairs, kitchen cupboards, kitchen utensils and kitchen ware, refrigerator, cooking range, cooker, washer, heater, heating fuel, cover and beddings, provided that the value of such an item does not evidently exceed the price of common household utensils.
- Study and religious literature, school items and children toys.
- Wedding rings, documents of personal nature, pictures and audio and video recordings relating to the debtor or his family members and data carriers of such recordings unless they can be transferred to another data carrier, and other objects of similar nature.
- Health care aids and other similar items needed by the debtor or his/her household member due to his/her illness or disability.
- Cash up to the amount equal to double the individual subsistence minimum.
- Animals, whose economic effect is not the main purpose of breeding and which serve people as companions.

While determining whether certain objects may or may not be affected by

---

<sup>24</sup> Sections 321 and 322 Act No.99/1963 Coll., the Civil Procedure Code.



enforcement, the court or the judicial officer must always examine whether such goods are necessary for the satisfaction of material needs of the debtor and his/her family or for the performance of his/her work tasks or whether the sale of such goods does not contravene good morals. With the passage of time, courts and judicial practice came to a conclusion that while certain goods are deemed typical household equipment (such as a colour TV set, dryer, dishwasher), with regard to the development of the economic situation, it does not necessarily mean that such goods are urgently needed and taking into account other circumstances of the specific case, even those goods can be sold in the enforcement procedure.

If the debtor is an entrepreneur, the judicial officer (court) must also examine whether the debtor needs the goods affected by enforcement for the performance of his business activities. In this case, the enforcement may not affect goods that allow the debtor to continue (to the minimum extent) the performance of his/her business activities. The question whether the entrepreneur urgently needs certain goods must always be assessed by the judicial officer on a case-by-case basis (for instance, a transport operator urgently needs motor vehicles used to transport passengers or cargo of his customers but does not urgently need vehicles used for his/her own transport or in the transport of employees). Such vehicles may be sold by the judicial officer in the enforcement procedure without interfering with the debtor's business activities.

The foregoing does not apply to entrepreneurs if the assets are mortgaged/pledged and the enforcement concerns recovery of the creditor's claim secured by such mortgage/pledge.

Other goods that cannot be affected or sold in the enforcement procedure include:

1. Technical means carrying records of investment instruments or storing documents relating to data kept in such records, and technical means serving for provision of data about owners of investment instruments<sup>25</sup>.
2. Certain categories of weapons and ammunitions whose sale is banned (with the exception of acquisition of weapons and ammunition in accordance with the law, where only firearm licence holders may acquire the ownership of weapons and ammunition in an auction).
3. Some plants containing narcotic substances, protected wild animal and plant species<sup>26</sup>.
4. Originals or copies of an author's works to which the debtor holds copyright<sup>27</sup>.

---

<sup>25</sup> Sections [92](#), [93](#) and [99a](#)) Act No.256/2004 Sb., Capital Market Business Act.

<sup>26</sup> Section [19](#) Act No.100/2004 Sb., Act on Trade in Endangered Species, in connection with Council Regulation (EC) No. 338/97).

<sup>27</sup> Act No.121/2000 Sb., on Copyright, on Rights Related to Copyright and on Amendments to Certain Acts (Copyright Act).

5. Cash funds on special (escrow) accounts, as well as government bonds kept on a special account at the Czech National Bank, and financial collateral.
6. The exemption of assets from enforcement must be also assessed in case of assets acquired for sums of money that have been paid to the debtor as social allowances<sup>28</sup>.

## **I.8 (Court) penalties and fines**

In the Czech Republic, penalties may be imposed primarily by the court under the conditions specified by the Civil Procedure Code. However, judicial officers are also entitled to impose penalties in the course of the enforcement procedure conducted in accordance with the Enforcement Code.

### **I.8.1 Court penalties**

Under the Civil Procedure Code<sup>29</sup>, the court (the president of the tribunal) is entitled to impose a penalty of up to CZK 50,000 (EUR 2,000 EUR) to anyone who:

- Seriously obstructs the conduct of a judicial procedure, particularly by failing to appear before the court without a serious reason (despite being duly and timely summoned by the court).
- Fails to obey a court order (e.g., a party fails to appear before an expert, fails to provide the required explanations, does not submit himself to a medical examination or a blood test required for the submission of an expert report).
- Disturbs peace.
- Has presented a grossly offensive submission.

Penalties constitute income to the State and may be imposed by the court not only on the parties to the proceedings but also on the public or attorneys-in-law. For instance, a penalty may be imposed by the court on a judicial officer to force him to fulfil an obligation owed to the enforcement court. At the same time, the court may impose a penalty on a commercial corporation or a cooperative if it fails to fulfil its obligations owed to the court.

The Civil Procedure Code further expressly allows imposing a penalty for the failure to fulfil the following obligations:

- The employer fails to issue or to request a confirmation of wage withholdings or fails to notify the court of employing an employee in respect of whom enforcement by means of wage withholdings has been ordered (§ 294 of Civil Procedure Code).
- The employer as the wage payer fails to fulfil the notification duty of the wage payer and the debtor (§ 295 of Civil Procedure Code).
- The administration of an enterprise which breaches its duties relating to the

---

<sup>28</sup> Act No. [266/2006 Sb.](#), Employee Accident Insurance Act.

<sup>29</sup> Section 53 Act No. 99/1963 Coll., the Civil Procedure Code.



performance of its office (§ 338I of Civil Procedure Code).

The penalty amount must always be duly justified by the court. Penalties should have a preventive and not a repressive function. Therefore, the situation of the person on whom the penalty is imposed plays a significant role in its imposition.

An imposed penalty may later be waived by the court (even after the termination of the proceedings), if it is justified by subsequent conduct of the person on whom the penalty was imposed.

### **1.8.2 Penalties imposed by judicial officers**

A judicial officer may impose a penalty on third parties mostly for their failure to fulfil obligations specified in the Enforcement Code<sup>30</sup>. Such an obligation consists of the obligation to provide information to the judicial officer about the debtor's assets that are known *ex officio* to these authorities and institutions, or to natural persons or legal entities.

With reference to the Civil Procedure Code (i.e., subject to compliance with the same conditions as those applicable to the court), the judicial officer may impose a penalty up to CZK 50,000 (EUR 2,000) to anyone who seriously obstructs the enforcement procedure, disobeys the judicial officer's order, disturbs peace, or presents a grossly offensive submission.<sup>31</sup>

The judicial officer may also impose a penalty if the debtor or a third party obstructs (verbally or physically) him/her or his/her employees in making an inventory of property or attachment of movable assets in the enforcement carried out by sale of movable assets. When imposing a penalty, the judicial officer shall abide by the same principles as the court, i.e., the penalty must have a preventive and not a repressive function. Therefore, the judicial officer must take into account the situation of the person on whom the sanction is imposed.

The judicial officer's decision to impose the penalty (which also constitutes income to the State) has the form of a ruling, which can be appealed. A decision on the appeal against a penalty is issued by the regional court.

## **1.9 Access to information on the domicile and assets of the debtor**

### **1.9.1 Central Enforcement Register**

Simultaneously with the adoption of the Enforcement Code in 2001, the Central Enforcement Register (hereinafter the "Register") was established by the law<sup>32</sup>. Since the date that the Enforcement Code was put in effect, this Register was kept by the Ministry of Justice of the Czech Republic, which was supposed to surrender it to the Chamber of Judicial Officers (hereinafter the "Chamber"). However, this never

<sup>30</sup> Section 33 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>31</sup> Section 53 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>32</sup> Section 125 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



happened, because the Ministry of Justice of the Czech Republic did not keep any such register. Hence, the Register only started operating after the adoption of the Decree on the Central Enforcement Register in 2008, which stipulated a detailed procedure for making entries and keeping enforcement records. Based on that decree, the Chamber organised a public tender for an independent operator of the Register and the winner of the tender actually launched the Register in 2009 and began to operate it in a fully electronic form for the Chamber.

The Register is a public register kept by the Chamber at the address <https://www.ceecr.cz/>, which records data required by the law concerning enforcement procedures. The data is entered after the expiration of 30 days of the service of the request for performance to the debtor. The Chamber is responsible for keeping and administration of the Register, for functionality of the system and for harm inflicted, for instance, by the system's inoperability caused by the Chamber, by lack of transparency of the reported data or by providing data from the Register that differ from those entered by the relevant judicial officer.

The Register may be inspected and data recorded in it may be requested by anyone subject to payment of a fee for provision of electronic data from it. Hence, the Register can be freely accessed by all citizens, courts and all other public authorities and organisations. The Ministry of Justice of the Czech Republic and courts are exempt from payment of fees for data required for all judicial agendas. No fee is paid for inspection of a list of auctions, in order to ensure transparency of auctions and the maximum possible number of bidders, either.

The following key data about enforcement procedures is kept in the Register:

- a) Notices of commencement of enforcement issued by the judicial officers after being authorised by the court to conduct the enforcement procedure.
- b) Rulings on suspension of enforcement and rulings on postponement of enforcement after becoming final and effective.
- c) Auctions notices in case of sale of an enterprise and sale of immovable property (including cooperative shares in housing cooperatives).
- d) Auctions notices in case of sale of movable assets.

### **1.9.2 Initiated enforcements register**

In addition to the Central Enforcement Register, the Ministry of Justice of the Czech Republic keeps a non-public register of initiated enforcement procedures. The Ministry of Justice of the Czech Republic provides information from the register of initiated enforcement procedures in the electronic form solely to courts and to the Chamber.

### **1.9.3 Search for the debtor's assets in the course of the enforcement procedure**



The Execution Code specifies subjects<sup>33</sup> who are obliged to provide to the judicial officer information about the debtor, in the course of the execution procedure, despite any obligation of confidentiality imposed upon such subjects. The provision of any such information is conditional upon written request for assistance presented by the judicial officer, which must clearly identify the debtor and be accompanied by a proof of the judicial officer's authority to carry out the enforcement procedure. A requested subject who refuses to provide assistance, causing thereby any damage to the creditor or the judicial officer, shall be obliged to provide compensation of such damage.

Such assistance must be provided primarily by courts, state and self-administration authorities, municipalities and their authorities, notaries and legal entities, and other natural persons if they decide on rights and obligations (such as arbitrators). These subjects cannot refer to their obligation of confidentiality towards the judicial officer but may only disclose information about the debtor's assets (i.e., about his/her debtors, but not about his/her creditors).

The Police of the Czech Republic must provide protection to the judicial officer upon his/her request if he/she cannot enforce a decision due to a threat to his/her life or health. Such protection applies not only to the judicial officer but also to other persons authorised by him/her (or his/her employees), and the judicial officer is always obliged to present to the Police the authorisation to carry out the enforcement procedure.

Other subjects obliged to provide any information required for the enforcement procedure to the judicial officer, upon written request, include:

- Persons keeping records of persons or their property (such as cadastral authorities, social security administrations, tax offices, the central securities depository).
- The body keeping the register of motor vehicles, the body authorised to keep public information administration system (information regarding weapons, ammunition and operated shooting ranges).
- Social security administration authorities.
- Health insurance companies.
- Commodity exchanges.
- Postal service operators (e.g., Czech Post) are obliged to disclose information about the identity of persons renting post office boxes or about the number of shipments and monies delivered to the debtor.
- Providers of electronic communication services are obliged to inform the judicial officer about telephone, telefax or fax stations used by the debtor.
- Insurance companies, investment companies and investment funds, securities'

---

<sup>33</sup> Sections 33, 34 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



dealers, pension insurance companies, pension funds (which are obliged to disclose payments of insurance proceedings to the debtor and numbers of the debtor's accounts).

- Banks, branches of foreign banks, savings and credit unions, electronic money institutions, foreign electronic money institutions, small-scale issuers of electronic money, foreign payment institutions and small-scale payment service providers must disclose, irrespective of banking secrecy, any information regarding their client's bank contacts (the account number and bank code) and information about the account holder and persons authorised to administer the account (the account balance and movements). At the same time, financial institutions must disclose information about the assets, goods, documents or book-entry securities (e.g., information about safety deposit box) or deposited shares. Cooperation with financial institutions takes place in an electronic form.

#### **I.9.4 Obligation of confidentiality**

The judicial officer is obliged to keep confidential all facts he/she becomes aware of in the course of the enforcement procedure conducted against the debtor<sup>34</sup>. The judicial officer can be relieved of this obligation primarily by the Chamber and solely for reasons deserving a special merit, to the necessary extent and on a case-by-case basis (e.g., to provide explanation to the Police of the Czech Republic or to press criminal charges). The judicial officer may also be relieved of the obligation of confidentiality by a party to the enforcement procedure whose interest the relevant fact affects (e.g., by the creditor).

The judicial officer is not bound by the obligation of confidentiality to the extent required for judicial proceedings, as well as to the extent required for proceedings before another body in case of a dispute between him and the creditor and debtor and their legal counsel, and for the purpose of performance of state supervision.

In addition to the judicial officer, the obligation of confidentiality applies to his/her employees and to his/her activity in the Chamber's bodies. This obligation shall survive the termination of employment with the judicial officer or with the Chamber.

A breach of the obligation of confidentiality triggers disciplinary liability of the judicial officer and obliges him/her to compensate any harm caused by the breach of this obligation. The judicial officer is also obliged to provide compensation for harm caused by his/her employee, but may be relieved of this obligation if he/she proves that the harm could not be prevented despite using utmost efforts that may be requested from him/her.

#### **I.9.5 Statement of the debtor's assets**

The judicial officer may summon the debtor during the enforcement procedure and ask him/her to present a statement of his/her assets. At the same time, the judicial

---

<sup>34</sup> Section 31 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



officer may inspect, for instance, the statement of the debtor's assets lodged in the court file, if the court has performed this act.

The judicial officer may summon the debtor only if he/she deems such step useful or if he/she believes that the debtor will be willing to appear at the seat of the judicial officer's office and provide information about his/her assets to the judicial officer voluntarily.

If the debtor does not appear voluntarily before the judicial officer, the judicial officer cannot force this by a penalty and cannot have the debtor brought by the Police of the Czech Republic. Neither can the judicial officer impose a penalty on the debtor if the debtor provides in his/her statement of assets intentionally untrue or grossly distorted information.

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

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

The Enforcement Code lists conditions<sup>35</sup> under which a natural person may become a judicial officer. In order to become a judicial officer, the natural person (individual) must:

- a) Be a citizen of the Czech Republic.
- b) Have full legal capacity (a person older than 18 years of age that may acquire rights and undertake obligations by his own legal acts).
- c) Have completed university education at a university in the Czech Republic or education in the field of law at a foreign university, provided that such education is recognised in the Czech Republic under an international treaty.
- d) Have no criminal record (a judicial officer has an official status and the probity is a condition of his independence).
- e) Have got at least three years of experience in the field of enforcement (including as an employee – articed clerk or judicial officer candidate; any other legal experience may be counted by the Ministry of Justice of the Czech Republic up to the maximum of two years).
- f) Have passed the judicial officer's exam (the applicant may be an articed enforcement clerk, a probationer or articed law clerk).

Anyone who meets the conditions stated under letters a) to f) may register in a tender announced by the Chamber. The tender commission has 6 members (2 judicial officers, 2 judges and 2 employees of the Ministry of Justice). The winner of the tender must take oath to the Minister of Justice but may perform his/her activities only after executing a contract on professional insurance of liability for damage.

A judicial officer is appointed by the Minister of Justice of the Czech Republic to the

---

<sup>35</sup> Section 9 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



district of a district court, where he/she must establish an office not later than 3 months after his/her appointment. The judicial officer may perform all acts that are otherwise entrusted by the Civil Procedure Code and other laws to the court, the judge, administrator or other court employee<sup>36</sup>. The judicial officer may also entrust the performance of such acts to his/her employees – a judicial officer candidate, articulated clerk or other employees, but bears disciplinary and, in extreme cases, also criminal liability for their activities. In addition to the disciplinary liability, the judicial officer is also liable for damage caused by him/her or by his/her employees during the performance of enforcement or other activities.

According to the Enforcement Code<sup>37</sup>, the subject who bear disciplinary liability include the judicial officer, the candidate judicial officer and the articulated enforcement clerk. The disciplinary liability of those subjects arises from the commitment of a disciplinary offence.

The Enforcement Code defines two types of disciplinary offences (disciplinary offence and serious disciplinary offence). The difference between these two types lies only in the degree of seriousness of the unlawful act. A disciplinary offence consists primarily of a breach of obligations of the judicial officer, the candidate judicial officer and the articulated enforcement clerk, which are defined by the law, by a professional regulation or by a ruling of the Chamber. A serious disciplinary offence represents a serious breach of those obligations.

The Enforcement Code further includes a list of disciplinary sanctions that may be imposed by the disciplinary tribunal for disciplinary offences:

- On a judicial officer – a written reprimand, public reprimand, a fine up to CZK 2,500,000 (EUR 100,000) or removal from office).
- On a candidate judicial officer – a written reprimand, public reprimand or a fine up to CZK 250,000 (EUR 10,000).
- On an articulated enforcement clerk - a written reprimand, public reprimand or a fine up to CZK 50,000 (EUR 2,000).

Disciplinary offences of judicial officers are dealt with by a specialised tribunal of the Supreme Administrative Court, which may impose simultaneously more than one disciplinary sanction. Hence, the Supreme Administrative Court may impose at the same time a written reprimand, a fine or public reprimand and a fine. For a serious disciplinary offence, it is possible to impose at the same time a public reprimand and a fine.

For instance, the disciplinary tribunal may impose on a judicial officer the disciplinary sanction consisting of removal from the office, provided that the judicial officer has

---

<sup>36</sup> Section 52 paragraph 2 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>37</sup> Section 116 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



been finally and effectively found guilty of a serious disciplinary offence at least three times in the past five years if such fact casts doubts on his/her credibility in his/her further performance of the judicial officer's profession<sup>38</sup>. A judicial officer who has been removed from office may not be reinstated as a judicial officer within 5 years after the final and effective date of the decision on his/her removal.

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

By means of the Enforcement Code, the State has delegated a part of its powers to the judicial officers and has determined by law the method of State supervision over their compliance with the law.

The supervisory authorities include:

- The Ministry of Justice of the Czech Republic.
- The Chamber of Judicial Officers of the Czech Republic.
- The president of a district court.

### **II.2.1 Ministry of Justice of the Czech Republic**

The Ministry of Justice of the Czech Republic carries out supervision which is characterised by the law as the exercise of state authority. Hence, the Ministry is entitled to supervise the lawfulness of the judicial officer's conduct during enforcement, compliance with the office rules and the continuity and length of the enforcement procedure. The Ministry may also control the management by the judicial officer of his/her office and examine whether the performance recovered in the enforcement procedure is duly kept on a special account by the judicial officer (which must be reported by him/her to the Ministry, in accordance with the Enforcement Code). The Ministry of Justice supervises judicial officers through the employees of a specialised Control Section either *ex officio* or based on received complaints or suggestions.

### **II.2.2 Chamber of Judicial Officers of the Czech Republic**

The Chamber of Judicial Officers is entitled to check all areas of the judicial officer's activities, including the method by which he/she manages his/her office. This activity is carried out in the name of the Chamber by the Controlling Commission, which may control the offices and take remedial steps. However, such controlling activities may not interfere with the judicial officer's independence during enforcement and with his decisions and may not threaten or breach those activities. Based on the identified facts, the Controlling Commission recommends to the presidium of the Chamber the adoption of sanctions, directed at the rectification of faults committed by individual offices or unification of activities of all offices.

### **II.2.3 President of district court**

---

<sup>38</sup> Section 116 paragraph 11 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



The president of the district court in the district where the judicial officer has been appointed may exercise State supervision *ex officio* (i.e., may carry out regular or extraordinary controls) or based on written suggestions of legal entities or natural persons.

State supervision in specific, individual matters may also be exercised by the president of the district court that has ordered the enforcement. This is conditional upon a written motion lodged by a legal entity or a natural person.

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

The debtor is obliged by law to allow the party that carries out the enforcement (the court or judicial officer) access to all locations of his movable assets (e.g., to his apartment, seat, place of business, etc.). If the debtor does not fulfil this obligation (refuses to open the door of his apartment or obstructs the entry of the judicial officer or his/her employee), the judicial officer is entitled to force entry into the place where the inventory of movable assets is to be made, even by overcoming any resistance from the part of the debtor.

If the debtor's apartment, seat, place of business or other room is located in a facility owned by a third party, such party is obliged to sustain in its premises the compilation of the inventory of the debtor's movable assets. The third party has this obligation solely in the case that the apartment, seat, place of business or other room is actually used by the debtor.

The obligation to sustain an inspection does not apply to the real property owner or tenant if the debtor does not live with him/her in common household and does not use any room in such property. If, however, the debtor has a specific room reserved for himself/herself in the apartment (office, etc.), the tenant or the owner is always obliged to sustain making an inventory of movable assets. This also applies in the case that the debtor was not intercepted in such room during the inventory-taking.

The judicial officer or his/her employee is obliged to make a written protocol and an audio-video recording of the course of inspection of the apartment and other rooms. All such recordings shall be made from the moment when the judicial officer or his/her employee starts performing the onsite inspection, including a recording of the negotiations with the debtor before the commencement of such inspection. The obligation to make an audio-video recording has been introduced as a proof of legality of the inventory of movable assets and for the purpose of documenting the procedure. Therefore, the record is not limited to the debtor's location (apartment etc.) but also to its surroundings, i.e., to the context of performance of the inspection (a record of the common corridor, entry gate into the garden, information provided by neighbours, etc.). The judicial officer or his/her employee must duly inform the persons present at the beginning of the inspection about such recordings.

If the relevant third party does not fulfil his/her obligation (e.g., refuses to open his/her house or apartment), the judicial officer is entitled to force entry into the debtor's apartment or other rooms. After completion of the inventory, the door must be locked and the keys must be handed over to a third party/parties or deposited at

another appropriate place (such as the municipal authority or the Police of the Czech Republic). The debtor must be properly notified of the place where he/she can pick up the keys.

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

The debtor is obliged by law to allow the judicial officer access to all locations of his/her movable assets. If the debtor does not fulfil this obligation, the judicial officer is entitled to force entry into the place where the inventory of movable assets is to be made, even by overcoming any resistance from the part of the debtor (for further details see Chapter II.4).

Another relevant case may, for instance, arise at the time of appraisal of real property owned by the debtor, which is to be subsequently sold in auction. The appraiser who is taken on by the judicial officer usually needs to inspect the property. In such case, the debtor is obliged to allow inspection of the property. If the debtor refuses and the expert is unable to determine the price without such inspection, the judicial officer may force access to the property.

Overcoming any resistance of the debtor or taking a person out of the place of enforcement, or forcing access to the property, etc., is never done by the judicial officer or his/her employees themselves; in all such cases, they must request in advance (or in the course of enforcement) the assistance or help of the Police of the Czech Republic. Under the Police Act<sup>39</sup>, the police are always obliged to provide protection to the judicial officer upon his/her request if he/she is unable to carry out enforcement due to a threat to his/her life or health. Under the law, police protection applies not only to the judicial officer but also to his/her employees.

#### **II.5 Time of enforcement**

The time when the judicial officer should carry out enforcement is not determined by the Enforcement Code or by the Civil Procedure Code, the basic laws governing enforcement.

The only regulation determining the time of carrying out of enforcement is the Instruction of the Ministry of Justice for Judicial Officers<sup>40</sup>, which stipulates that “The administrator shall carry out individual acts of enforcement of the judicial decision in such time of the day when it is most likely to expect achievement of the result, i.e., also outside the scheduled working hours and on days of rest usually between 6:00 am and 10:00pm”<sup>41</sup>.

Although the above-mentioned instruction is binding for courts and their employees

---

<sup>39</sup> Section 21 Act No.273/2008 Coll., on the Police of the Czech Republic.

<sup>40</sup> Instruction of the Ministry of Justice of 21 August 1996, Ref.Nr.1360/95 - OOD, which issues the Order for Court Clerks.

<sup>41</sup> Article 6 part 5 of the Instruction of the Ministry of Justice of 21 August 1996, Ref.Nr.1360/95 - OOD, which issues the Order for Court Clerks.



(judicial administrators), it is also applied by judicial officers and their employees. Hence, they do not carry out enforcement activities at night between 10:00 pm and 6:00 am.

## II.6 Mediation

The system in which the judicial officer may conclude agreements with the debtor if so agreed between the creditor and the debtor is not regulated by Czech law. At the same time, Czech law does not regulate the possibility of agreeing on an instalment schedule for repayment of debt. However, the instalment schedule is used very often for repayment of debt as an ordinary part of enforcement activities carried out by all judicial officers.

Neither are the “soft enforcement” measures enshrined in Czech law. Such measures cannot thus be used by judicial officers.

Moreover, in the Czech Republic it is impossible to use mediation or to reach compromise before the start of the enforcement actions in the course of the enforcement procedure. According to the Enforcement Code, the creditor may file a petition for commencement of enforcement if the debtor has failed to voluntarily fulfil the obligation which he was bound to fulfil by the enforcement title<sup>42</sup>. Then, the judicial officer is not authorised by the law to examine whether the debtor has actually failed to voluntarily fulfil such obligations, but carries out enforcement on the basis of the creditor’s allegation.

After ordering enforcement, it is possible to refer to the “voluntary fulfilment of the debtor’s obligation” only in cases where the debtor fulfils the enforced obligations within 30 days after the service of the request<sup>43</sup>. To meet the conditions of “voluntary fulfilment”, the debtor must not only pay the enforced claim within the 30-day time limit but also an advance for the creditor’s costs and for the costs of enforcement. In case of payment of those amounts, the judicial officer is only entitled to 50% of his fee and 50% of the enforcement costs (for details see Part IV.)

## PART III: ENFORCEMENT PROCEDURES

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

The enforcement procedure is initiated by a petition of the creditor, who has got a final and enforceable enforcement title (see Chapter I.2). A confirmation of enforceability must be attached to the enforcement titles principally by the authority that has issued them or, with regard to the enforcement titles consisting of compromise or agreements, by the authority that has approved them. The enforceability of decisions of bodies of the European Union is confirmed by the Ministry of Justice of the Czech Republic. However, the confirmation of enforceability

<sup>42</sup> Section 37 paragraph 2(b) Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>43</sup> Section 46 paragraph 6 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



of an enforcement title is not binding for the court, which is entitled to examine the enforceability of the enforcement title.

As noted above, the enforcement procedure is initiated by the creditor's petition. Hence, it is only up to the creditor whether he/she will (or will not) initiate the enforcement procedure against the debtor. Such petition may only be filed by the creditor himself/herself or by the party that proves that the right arising from the enforcement title has passed or has been transferred to him/her. As the enforcement procedure is initiated on the date of service of the petition to the judicial officer, the petition must also name the judicial officer who is to be entrusted with carrying out the enforcement procedure. If the petition is served by mistake to another judicial officer, such officer will refer it to the judicial officer named in the petition. The same procedure shall be applied by the court, which shall also refer the petition to the judicial officer who is to be entrusted with carrying out the enforcement.

The judicial officer who has received a petition for enforcement shall apply to the enforcement court for authorisation to conduct the enforcement (the competent enforcement court is the district court in whose district the debtor has his/her permanent residence or seat (in case of a legal entity). Before applying to the enforcement court for authorisation, the judicial officer shall arrange for removal of any defects of the enforcement procedure and shall also find out whether the prerequisites for conduct of the enforcement procedure have been met. If the judicial officer finds out that the petition does not include all particulars stipulated by the law or is incomprehensible or indeterminate, he/she shall request the creditor to correct or supplement the petition within a determined time limit and shall instruct him/her how to make such correction or supplement. If the creditor fails to correct or supplement the petition within the stipulated time limit, the judicial officer shall reject the petition. The same procedure shall be applied by the enforcement court after receipt of the judicial officer's application for authorisation to conduct enforcement. If the enforcement court does not find any grounds for dismissal of the petition, it shall issue the authorisation to conduct the enforcement and shall serve it to the judicial officer.

After receipt of the authorisation to conduct the enforcement, the judicial officer shall write a notice of commencement of enforcement and shall send it to the debtor within 15 days. At the same time, the judicial officer shall begin searching for the debtor's assets, i.e., demand assistance from authorities that are obliged to comply (see Chapter I.9). Those are mainly courts, state and self-administration authorities, municipalities and their bodies, notaries, and legal entities and natural persons if they decide on rights and obligations.

The judicial officer shall send the notice to the debtor only after completing search for the his/her assets. However, the judicial officer may not send the notice to the debtor earlier than together with the first enforcement order which he/she serves to the debtor. Together with the notice of commencement of enforcement, the judicial officer shall send to the debtor a petition for ordering enforcement, a copy of the enforcement title and a request for "voluntary" fulfilment of the enforced obligation



within 30 days after the service of the notice.

After the service of the notice of commencement of enforcement, the debtor shall become subject to the general inhibitorium (i.e., to a ban on disposal of his assets, including real estate and assets constituting part of common matrimonial property), except for ordinary business activities, satisfaction of basic vital needs and maintenance and administration of property. If the debtor breaches this obligation, his/her actions shall be null and void.

There are several exemptions from the general inhibitorium, which include, without limitation:

- If the debtor deposits with the judicial officer an amount equal to the enforced claim, the enforcement costs and the creditor's costs, the judicial officer shall cancel the ban on disposal of assets upon the debtor's motion.
- Upon the debtor's motion, the judicial officer may also decide that the ban does not apply to assets referred in said motion (in this case, the remaining assets of the debtor must be sufficient to cover the claim and the enforcement costs).

The general inhibitorium does not apply to the State or local self-administration entities.

The enforcement which has been ordered by an enforcement court, which authorised a specific judicial officer to carry it out, shall be terminated for the following reasons:

- a) The claim, its appurtenances and enforcement costs have been recovered.
- b) The enforcement was suspended.
- c) Enforcement has been terminated otherwise – e.g., the enforcement court has decided to exclude the judicial officer, the judicial officer has changed pursuant to Section 44b or a decision to consolidate enforcement procedures has been issued.

#### a) Successful recovery

The best method of termination of enforcement from the creditor's perspective is the recovery of the claim. In such case, however, the creditor's claim must be recovered together with full recovery of its expenses (legal costs, attorney's fees, interest, etc.) and of the enforcement costs. In this case, the enforcement will be terminated by payment of the financial performance to the creditor (or his/her legal representative), or to registered creditors (if there are more than one creditor) together with payment of all enforcement costs, including the judicial officer's fee determined in accordance with the enforcement tariff.

#### b) Suspension of enforcement

In case of suspension of enforcement (see Chapter I.5), the enforcement is terminated by a decision of the enforcement court or the judicial officer for one of the reasons due to which it cannot be successfully completed. In such case, the enforcement is not



successfully terminated.

### c) Other methods of termination of enforcement

Other cases of termination of enforcement include but are not limited to situations where the court decides to exclude the judicial officer, e.g. for his/her prejudice, cases of change of the judicial officer upon the creditor's motion (without the judicial officer's consent due to a serious reason on the creditor's side, or on other grounds with the judicial officer's consent), or cases where it has been decided to consolidate several enforcement procedures into a single procedure, which is carried on by a new judicial officer (in such cases, the enforcement conducted by a judicial officer is terminated but the enforcement procedure is carried on by a new judicial officer).

A specified termination of enforcement may occur in cases where the judicial officer will lose the authority to hold office (upon his/her own request or upon a decision of the disciplinary tribunal), due to which he/she cannot carry on the enforcement. In such case, the newly appointed judicial officer shall take over and finish all open files of the closed office, or the creditor will apply for a change of the judicial officer to complete the relevant enforcement.

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

After receiving an authorisation to conduct enforcement from the enforcement court, the judicial officer shall begin searching for the debtor's assets, namely on the basis of information provided by the creditor or by the authorities that are obliged to provide assistance to the judicial officer (courts, state and self-administration authorities, municipalities, etc.) and to disclose to him/her information about the debtor's assets. At the same time, the judicial officer may carry out further searches for the debtor's assets, i.e., either the judicial officer or his/her employees authorised by him/her will make a personal visit of the debtor at his/her domicile or at another place where the debtor may store his/her goods. The debtor is obliged by law to allow the judicial officer or employees authorised by him/her access to his/her apartment (or seat of his/her company, place of business etc.) and to all locations where he/she has stored his/her movable assets. If he/she fails to fulfil this obligation, the judicial officer is entitled to force access to the place where the inventory of movable assets is to be made, even if he/she has to overcome any resistance from the debtor's part (see Chapter II.3).

After gathering all information about the debtor, the judicial officer shall assess the method of enforcement against the debtor, elect proper application of these methods and issue an enforcement order regarding the assets that are to be affected by the enforcement<sup>44</sup>. The enforcement order represents a decision of the judicial officer whereby the latter elects an appropriate enforcement method, particularly with regard to the amount of the debtor's debt and the price of the object that is to be used to satisfy the debtor's obligations.

---

<sup>44</sup> Section 47 paragraph 1 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

Following the issuance of an enforcement order, the judicial officer may proceed to the inventory of movable assets in the debtor's apartment (seat of the debtor's company, place of business etc.) or at the place where the judicial officer finds that the debtor's movable assets are stored. Before making the inventory of movable assets, the judicial officer or an employee authorised by him/her shall deliver the ruling ordering enforcement (i.e., the authorisation of the enforcement court to carry out enforcement) to the debtor or his/her spouse (if they are present in person at the inventory). At the same time, he/she shall instruct the debtor onsite that the latter may fulfil the obligation under the enforcement title. If the debtor pays the outstanding claim with appurtenances (interest, enforcement cost, judicial officer's fee) on the spot, the judicial officer shall refrain from taking the inventory. Otherwise, the judicial officer shall make the inventory of movable assets.

Firstly, the judicial officer shall decide which of the movable assets he/she will include in the inventory taking into account their price, quality, age or wear and tear. Therefore, he/she shall include only goods that can easily be spared by the debtor and can be sold for the highest price in subsequent auction in the inventory.

Certain perishable goods (such as fruit, vegetables, meat etc.) may be included in the inventory only if there is no sufficient number of other appropriate goods. If the judicial officer includes such goods in the inventory, he/she must ensure their quick sale outside auction so that they do not get spoiled and lose their value.

The judicial officer shall not include in the inventory any assets, in respect of which the creditor declares that they should not be inventoried. The judicial officer shall also apply the same approach in cases where the debtor proposed to do so and the creditor consents.

During the entire taking of inventory of movable assets, the judicial officer must also take care of the debtor's rights and protection and may not include in the inventory any asset owned by the debtor or forming part of the common matrimonial property of the debtor and his/her spouse which are exempt from enforcement (see Chapter I.7)<sup>45</sup>.

If the judicial officer includes in the inventory any movable assets, in respect of which the debtor insists that they cannot be affected by enforcement, the debtor is entitled to proceed in accordance with the Civil Procedure Code<sup>46</sup> and submit a motion to suspend this part of the enforcement. If it is found out thereafter that such assets cannot be affected by enforcement, the judicial officer or the enforcement court shall proceed *ex officio* and exclude such assets from enforcement.

In the course of inventory (or after it has been completed), it can be found that an asset included in the inventory does not evidently belong to the debtor but to a third party. If such fact is proved on the spot, the judicial officer may immediately exclude

---

<sup>45</sup> Sections 321, 322 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>46</sup> Section 268 Act No.99/1963 Coll., the Civil Procedure Code.

this particular good from the inventory or exclude it if both the creditor and the debtor agree. Otherwise, the judicial officer must instruct the relevant third party of its right to file an excinding petition under the Civil Procedure Code<sup>47</sup>.

Upon the final and effective date of the ordered enforcement, the judicial officer shall organise the sale of movable assets. At first, he/she shall arrange for an appraisal of the movable assets which he/she cannot appraise by himself/herself during inventory. A court expert is taken on in more complicated cases when the judicial officer's appraisal is not sufficient (e.g., in case of valuation of an automobile, works of art, collections of works of art or stamps etc.). The valuation is not carried out in cases where the price is determined by an official authority (such as the Ministry of Finance, Ministry of Health, Czech Telecommunications Office, regional and municipal authorities) or by the exchange rate of an investment instrument or in accordance with the published value of a security or book-entry security.

Inventoried assets are sold in public sale (auction). The judicial officer may sell the assets individually or as a set of goods. The goods sold as sets are primarily those forming a functional set or fungible securities<sup>48</sup> or fungible book-entry securities, provided that it is possible to expect higher proceeds from the sale of a set of goods.

The judicial officer shall organise the auction after making an announcement in the form of an auction notice. The auction notice must include:

- The date, time and place of the auction.
- The designation of movable assets that are to be auctioned (including a note on whether they will be auctioned individually or as a set).
- The price of the goods (per individual items or sets).
- The amount of the minimum bid and a note whether the bidders must pay an auction security (which is obligatory only if the price of an individual good or of a set of goods exceeds EUR 45,000).
- Information about the distribution (allocation) of the estate.

The judicial officer shall serve the auction notice to all parties to the enforcement proceedings and to the municipalities where the auction is held and where the debtor's domicile is located. The auction notice shall also be published in a manner ensuring the participation of the maximum possible number of bidders and achievement of the maximum sale price. The auction may not be held earlier than 30 days after the publication of the auction notice.

The judicial officer shall organise the auction at the place where the movable assets

---

<sup>47</sup> Section 267 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>48</sup> See Chapter III.8. In case of enforcement by sale of securities (shares, book-entry securities or instruments representing a right), the judicial officer uses the same procedure as in the case of sale of movable assets (see Chapter III.2). After the issuance of the enforcement order, the judicial officer must include the securities in the inventory as movable assets and then sell them in the prescribed manner.



are located, at the seat of the judicial officer's office or at another appropriate place (such as the seat of the municipal authority, the court building or other premises). If necessary, the judicial officer shall arrange for transport of auctioned goods to the place where the auction will be held.

The debtor (or his/her spouse), the judicial officer and his/her employees, the judge and all court employees may not participate in the auction. Before the beginning of the auction, each bidder must prove his/her identity and their data are then entered in the auction record.

The auction is opened by the judicial officer by announcement of the minimum bid amount, which is equal to a third of the estimated price, and by invitation of bidders to offer their bids. The auction ends with the announcement of the highest bid, which will not be further topped by any bidder. In such case, the judicial officer shall close the auction and grant knock-up to the winning bidder. The procedure shall be repeated until a knock-up is granted to all auctioned goods. If some goods are not sold, a repeated auction shall be held.

The auction winner, who has got a knock-up bid in the auction, must pay for his/her bid immediately on the spot or within 7 days after the auction date, if the amount exceeds CZK 270,000 (EUR 11,000), which is the maximum amount to be paid in cash<sup>49</sup>. If the auction winner does not pay the highest bid on the spot, the judicial officer shall auction the good again without the winner's participation. The ownership title to the good (or set of goods) shall pass to the winning bidder after payment. All mortgages/pledges and liens (right of pre-emption or lease) shall expire upon the passage of the ownership title.

The judicial officer shall pay to the creditor the auction proceeds after deduction of the enforcement costs. If a good sold in auction was subject to a mortgage/pledge or attachment, the judicial officer shall pay the proceeds firstly to the creditor whose claim has been secured and only thereafter to the creditor in favour of whom the good has been inventoried. In case of more creditors (if they have registered their claim in the enforcement), the judicial officer shall proceed in accordance with the order of registrations.

If the achieved auction proceeds exceed the value of the enforced claim (after deduction of the enforcement costs), the judicial officer shall pay the balance to the debtor.

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

In the course of the enforcement procedure, the judicial officer may order enforcement by attachment on receivables from accounts kept with a financial institution, in respect of the debtor's receivables from an account kept in any currency with a financial institution operating in the Czech Republic. According to the Act on

---

<sup>49</sup> Section 4 paragraph 1 Act No. 254/2004 Sb., on the restriction of cash payments.

Banks<sup>50</sup>, the term financial institution includes not only a bank, a branch of a foreign bank or a savings and credit union, but also an institution of electronic money, a foreign institution of electronic money, a small-scale issuer of electronic money, a payment institution, a foreign payment institution or a small-scale provider of payment services, because all these institutions may keep accounts of the debtor in any currency. Accounts kept by the Czech National Bank as interbank payment accounts are expressly exempt from enforcement by law<sup>51</sup>.

The judicial officer carries out the enforcement by means of attachment on a bank account kept by a financial institution by ordering the latter not to pay from the debtor's account any funds up to the amount of the enforced claim and its appurtenances from the moment of service of the enforcement order, not to make any set-offs with such amount and not to make any other disposals of such amount (the "arrestatorium"). If the judicial officer issues an enforcement order affecting more accounts of the debtor, he/she shall also state the order in which the financial institution shall deduct the enforced claim from each account. Following the service of the enforcement order to the financial institution, the debtor loses the right to payment of funds and such right passes to the creditor to the extent corresponding to the enforcement title (the "inhibitorium"). The ban on disposal of the funds on the account applies not only to the account holder (the debtor) but also to his/her spouse and to any other persons that have the right to dispose of the funds on the attached account(s).

The ban on payment of funds from the debtor's account does not apply to the financial institution in the following cases:

- Payment of salaries to the debtor's employees which are due on the first pay day following the service of the enforcement order to the financial institution. The funds shall be paid to the debtor upon presentation of a written statement of the purpose of payment, a list of all employees and the amount to be paid, and
- Up to the amount of double the individual subsistence minimum<sup>52</sup>.

The financial institution shall always announce to the judicial officer the payment date and amount of such funds.

If the funds on the debtor's account are not sufficient to settle the claim enforced by the creditor, the financial institution shall wait for other funds to appear on the account within 6 months after the service of the enforcement order.

The enforcement shall be carried out by debiting the debtor's account – for the enforced claim and its appurtenances and payment thereof to the creditor – to the judicial officer's account, in accordance with the enforcement order. If an

---

<sup>50</sup> Act No. 21/1992 Coll., on Banks.

<sup>51</sup> Section 20b Act No. 21/1992 Coll., on Banks.

<sup>52</sup> Act No. 266/2006 Coll., Employee Accident Insurance Act.

enforcement order has been issued against more than one of the debtor's accounts, the financial institution shall carry out the enforcement against the debtor's individual accounts, in accordance with the sequence stated in the enforcement order.

The financial institution shall carry out the enforcement on the day following the service of the judicial officer's notice that the enforcement order has become final and effective, even if the debtor's receivable from the account is only sufficient to partly satisfy the creditor's claim. In such case, the financial institution shall gather funds up to the amount required for full satisfaction of the creditor on the debtor's account. If this does not occur within six months after the date of service of the enforcement order, the financial institution shall debit the claim from the debtor's account and pay it to the creditor (on the judicial officer's account), even if the amount is not sufficient for full satisfaction of the claim.

By debiting the debtor's account for the enforced claim and its appurtenances and payment thereof to the creditor (on the judicial officer's account), the financial institution shall be released from its obligation to the creditor to the extent of the amount paid to the latter.

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

Savings deposits and current accounts are subject to the same rules as those applicable to the attachment on the debtor's bank account, specified in Chapter III.3.

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

The judicial officer may carry out enforcement by sale of immovable assets and issue an enforcement order for sale of immovable assets if he/she has got evidence that the immovable asset is owned by the debtor. For evidencing the debtor's ownership, it is sufficient that the documents issued or certified by state authorities or notarized public documents available to the judicial officer indicate the debtor's ownership of the immovable asset.

According to the Civil Code's definition<sup>53</sup>, the following are deemed to be immovable assets:

- a) Lands<sup>54</sup> and underground structures with a separate intended purpose.
- b) Rights in rem in those lands and separate underground structures.
- c) Rights declared by a statute to be immovable assets (since 2012, the newly enacted construction right).
- d) If a certain good is not a component part of a tract of land, and such a good cannot be transferred from place to place without violating its substance, such a good is also an immovable asset (e.g., a structure that is a component part of a tract of land).

---

<sup>53</sup> Section 498 Act No. 89/2012 Coll., the Civil Code.

<sup>54</sup> Section 2 of Act No. 256/2013 Coll., on Real Estate Cadastre (Cadastral Act).



- e) A residential unit that includes an apartment as a separate part of a house and a share in the common parts of the immovable asset, which are interrelated and inseparable (the same applies to non-residential units).

The issuance of an enforcement order for sale of an immovable asset owned by the debtor triggers the beginning of the following phase of the enforcement procedure – the valuation of the immovable asset. The judicial officer is not entitled to appraise the immovable asset himself/herself, but must appoint a certified expert, who shall determine the usual price of the immovable asset<sup>55</sup>. After the expert determines the price of the immovable asset, the judicial officer shall issue a ruling on the price, which shall be served to the parties and all persons whose rights and obligations have been determined by the judicial officer (persons having the right of lease, right of pre-emption etc.). All those persons may appeal and contest the price.

After the final and effective determination of the price of the immovable assets, the sale thereof will proceed to the next phase – the auction. The auction may be typical or electronic. The judicial officer may proceed to the auction after issuing a notice of auction (the “Auction Year”), which must include the following information:

- The date, time and place of the auction.
- The designation of the immovable assets and their accessories.
- The resulting price.
- The amount of the minimum bid.
- The amount and payment method of the auction security or information that payment of security is not required.
- Any easements, leases or pre-emption rights that will not expire upon the sale of the immovable asset in auction.
- The prerequisites under which the auction winner may take over the immovable asset and will become its owner.

In addition to the aforementioned information, in case of an electronic auction, the auction notice must include the following information:

- The method of registration of bidders and the method by which the bidders are obliged to state their name, surname, domicile and birth index number.
- The method of informing about the auction process or a reference to the website where this procedure is published.
- The address of the website where the auction will be held and where it can be monitored by the public.
- The date and time of opening and closing of the auction, i.e. the period during which it is possible to increase bids.

---

<sup>55</sup> Section 2 Act No. 151/1997 Coll., on Property Valuation.



The auction notice must be served by the judicial officer not only to all parties to the enforcement procedure but also to the tax office and the municipal authority of the place where the immovable property is located, to the social security administration, to the health insurance company, to the cadastral authority and to other entities named by the law.

The judicial officer shall further publish the auction notice by the method commonly used at the given place so that the maximum number of bidders may participate in the auction and the maximum sale price may be achieved. The judicial officer shall publish the auction notice at the place where the immovable property is located, at the seat of the judicial officer's office or at another appropriate place (such as the seat of the municipal authority, an auction room, the court building or other premises), and like in the case of movable goods, the auction shall not be held earlier than 30 days after the issuance of the notice.

The judicial officer shall determine the auction security amount (which shall not be less than  $\frac{3}{4}$  of the minimum bid). The auction security shall also be paid to the treasury of the judicial officer's office. However, in practice it is usually paid to the judicial officer's account (in case of an electronic auction, the auction security must be paid solely to the judicial officer's account).

The debtor (or his/her spouse), the judicial officer and his/her employees, the judge and all court employees may not participate in the auction. Bidders may only participate in the auction if they have paid the auction security until the opening of the auction procedure and have proved their identity before the beginning of the auction. The bidders' data shall be entered in the auction record. A bidder may also participate in the auction by proxy upon an officially authenticated power of attorney or a document proving the authorisation to act in the name of the relevant entity (such as the State, ministry, municipality etc.).

The auction is opened by the judicial officer by announcement of the minimum bid amount, which is equal to two thirds of the estimated price, and invitation of bidders to offer their bids. The auction ends with the announcement of the highest bid, which will not further be topped by any bidder. In such a case, the judicial officer shall close the auction and shall grant knock-up to the winning bidder. In the ruling on the knock-up, the judicial officer shall also set the time limit for payment of the highest bid, which may not be longer than 2 months. The winning bidder may also pay the highest bid in the form of a loan. In this case, the judicial officer shall order the winning bidder to present a loan agreement to him/her or to pay the highest bid within 2 months after the final and effective date of the knock-up.

In the ruling on the knock-up, the judicial officer shall also order the debtor to vacate the immovable asset, if possible, within 15 days after the final and effective date of the knock-up (or to pay the highest bid, if later).

The winning bidder shall become the owner of the auctioned immovable asset after the final and effective date of the ruling on knock-up and payment of the balance of the highest bid, retroactively to the date of issuance of the ruling on the knock-up. The

winning bidder may take over the auctioned immovable asset as of the date following payment of the balance of the highest bid.

If the auction fails (no bid is put up), the judicial officer shall close it. The judicial officer may only order another auction upon the creditor's motion, which may not be filed before the expiration of 3 months after the failed auction. If the creditor does not file a motion for repeated auction within one year, no new auction may be ordered. The minimum bid at the repeated (second) auction shall be determined in the amount equal to 50% of the price of the immovable asset. At the third auction, such amount shall be equal to 40% of the price. At the fourth auction, it shall be equal to 30% of the price and at the fifth – the last – auction to 25% of the price. If the immovable property is not sold in the fifth auction, the judicial officer shall suspend the sale of the immovable asset.

Following the final and effective date of the ruling on the knock-up and payment of the highest bid, the judicial officer shall order a hearing about the distribution of the estate.

The categories listed below shall be satisfied from the distributed estate, in the following order:

- a) Outstanding enforcement costs (including the expert's fee, the costs of enforcement and the judicial officer's fee).
- b) Claims against the unit owner relating to the management of the building and land.
- c) Claims from mortgage loans.
- d) The creditor's claim and claims secured by a mortgage/pledge.
- e) Child support arrears.
- f) Taxes and charges, public health insurance and social security premiums.
- g) Compensation for injury caused by a criminal offence.
- h) Other claims.

Following the final and effective date of the ruling on the distribution schedule, the mortgages to the auctioned immovable property shall expire. The judicial officer shall notify the relevant cadastral authority and the auction winner of the mortgages that have expired and of any mortgages that continue to operate against the auction winner.

Following the settlement of all registered and enforced claims, the judicial officer shall pay the balance of the distributed estate to the debtor.

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

Enforcement by wage withholdings means blocking the debtor's claim to payment of wages from his/her employer based on an employment or other similar relationship.

The judicial officer shall issue an enforcement order, ordering the wage payer to make



the prescribed withholdings from the debtor's wages and not to pay the withheld amounts to the debtor. As of the date of service of the order to the wage payer, the debtor loses the right to payment of the part of the wages equal to the specified amount of withholdings.

There is a basic amount (“immune from attachment”), determined by a regulation of the Government of the Czech Republic<sup>56</sup>, which may not be withheld from the debtor's wages. This amount consists of an amount immune from attachment, which relates to the individual, i.e., the debtor, and depends on the number of persons whom the debtor maintains, i.e., to whom he is obliged to provide support under the law (such as minor children, parents, grandparents etc.).

Only one third of the net wage remaining to the debtor after deduction of the amount immune from attachment may be withheld to settle the creditor's claim. Two thirds are withheld to settle preferential claims<sup>57</sup> (child support, harm caused by a criminal offence, taxes, social security premiums etc.). Preferential claims shall firstly be satisfied from the second third and if such third is not sufficient for their satisfaction, they are settled together with the other claims from the first third.

If the withholdings from the debtor's wages have been ordered to settle more than one claim, these claims shall be satisfied from the first third in the pre-determined order, notwithstanding whether these are preferential or other claims. The order of the claims depends on the day when the wage payer was served the enforcement order for wage withholdings. In the event that several claims were served to the wage payer, such claims shall have the same ranking and shall be satisfied proportionally.

In accordance with the law, the wage payer shall stop making wage withholdings as soon as the creditor's claim, including the enforcement costs, are fully satisfied.

The above-mentioned rules shall also apply to the attachment on other income replacing the debtor's wages, which includes, in particular:

- Wage or salary compensation.
- Sickness allowances and maternity support<sup>58</sup>.
- Pensions, scholarships, unemployment allowance.
- Severance pay, compensation for loss of earnings for the period of temporary work incapacity.
- Service contribution paid to professional soldiers or security corps members

---

<sup>56</sup> Government Decree No. 595/2006 Coll., on the method of calculating the basic amount that may not be deducted from the liable person's monthly wage during enforcement, and on determining the amount above which the wage is deductible without restriction (Regulation on non-recoverable amounts).

<sup>57</sup> Section 279 paragraph 2 Act No. 99/1963 Coll., the Civil Procedure Code.

<sup>58</sup> Act No. 187/2006 Coll., on health insurance.



etc.

If the debtor becomes entitled to obtain any other income (in the meaning described above) in addition to wages, the judicial officer shall consider such income as additional wages of the debtor (in accordance with the rules set forth by the law). If the debtor acquires, after the attachment on wages, the right to other income in lieu of or in addition to wages, the withholdings shall also apply to such other income<sup>59</sup>.

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

In essence, a debtor's debtor means the employer (with regard to the enforcement procedure, see Chapter III.6), a financial institution (see Chapter III.3) and the third party against which the debtor has another monetary claim.

The judicial officer may also order the attachment on a debtor's monetary claim<sup>60</sup> - other than a claim from an account kept with a financial institution or a claim for wages and other income – in the event that the debtor's claim will only be payable in the future or that partial claims will gradually arise to the debtor in the future.

In the order of attachment on other monetary claims of the debtor, the judicial officer shall prohibit the latter to dispose of his/her claim (up to the amount of the enforced claim and its appurtenances) in any way and prohibit the debtor's debtor to pay his/her claim to the debtor, to set it off or to otherwise settle it.

The enforcement shall be carried out by the debtor's debtor paying the claim, to the extent to which it has been attached by the judicial officer, to the creditor (through the judicial officer), after the final and effective date of the enforcement order. The debtor's debtor shall pay the due claim on the day following receipt of the judicial officer's notice of the legal effects of the enforcement order. If the debtor's claim has not yet been due, he/she shall pay it to the creditor as soon as it becomes due. By paying the claim, the debtor's debtor shall be released from his/her obligation to the debtor.

If the debtor's debtor fails (or refuses) to pay the attached claim to the creditor, the creditor is entitled to seek payment of the claim in the form of a garnishee action<sup>61</sup>. However, the creditor may not conclude a compromise with the debtor's debtor (to the debtor's detriment) or waive payment of the claim. If the creditor does not exercise his/her option to file a garnishee's action within the time limit determined by the law, thus causing damage to the debtor, the creditor is liable to the debtor for such damage.

The following claims are not subject to attachment on other monetary claims of the debtor (namely, they cannot be affected by the attachment order):

- Wage or salary compensation.

---

<sup>59</sup> Section 299 paragraph 1 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>60</sup> Sections 312 to 318 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>61</sup> Section 315 Act No.99/1963 Coll., the Civil Procedure Code.



- Proceeds paid by the insurance company (only if they are to be used in the construction or repair of a destroyed building).
- Monetary social care allowance.
- Housing allowance.
- Lump-sum state social support and foster care allowances.
- Some other allowances.

There is statutory limit relating to the attachment on claims of individual entrepreneurs. However, this only applies to claims arising from their business activities. In this case, the judicial officer may attach such claims only up to two fifth of their value. Preferential claims<sup>62</sup> may only be attached up to three fifth of their value.

### III.8 Enforcement against shares

The new Civil Code enacted in 2012 contains a new definition of security. According to this definition, security<sup>63</sup> is an instrument incorporating a right in such a manner that after issuing the security the right cannot be asserted or transferred without the relevant instrument. This new definition also applies to the term “instruments representing the right to payment of an outstanding amount”.

The term “book-entry security” is defined by law as a security that is replaced by a registration in a corresponding register<sup>64</sup> and may not be transferred in a manner other than by changing the record in the register.

In case of enforcement by sale of securities (shares, book-entry securities or instruments representing a right), the judicial officer uses the same procedure as in case of sale of movable goods (see Chapter III.2). After the issuance of the enforcement order, the judicial officer must include the securities in the inventory as movable goods and must then sell them in the prescribed manner.

The sale of security is governed by its nature or the creditor's opinion. If allowed by the nature of the security, the judicial officer may request the person who is to provide performance under the security to surrender to him/her such performance (using the same procedure as in case of attachment on a claim – see Chapter III.7). If the person refuses to surrender the performance, the judicial officer shall organise the sale of the security.

The judicial officer shall then determine the method of sale of the security, taking into account its nature (there is the possibility to be sold in auction, if so allowed by its nature). The amount obtained by the sale or other turning of the security to money is deemed to be the proceeds of the sale. The judicial officer shall pay this amount (after

---

<sup>62</sup> Section 279 paragraph 2 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>63</sup> Section 498 Act No. 89/2012 Coll., the Civil Code.

<sup>64</sup> Section 525 paragraph 1 Act No. 89/2012 Coll., the Civil Code.

deduction of enforcement costs) to the creditor, as the proceeds of the enforcement.

If the inventoried securities or book-entry securities are not sold, the judicial officer shall turn them to money through a securities dealer or other provider licensed to provide investment services<sup>65</sup>. In the case, the securities shall be sold in a voluntary public auction. The judicial officer is entitled to grant consent on the creditor's behalf with the voluntary auction (including the right to sign the relevant agreement with the securities dealer).

### **III.9 Other attachment procedures**

Other procedures of enforcement used by judicial officers in their practice include:

#### **III.9.1 Attachment on business share or membership in a cooperative<sup>66</sup>**

This enforcement method may be ordered in the form of attachment on other rights, provided that such rights have a property value, are not related to the person of the debtor and are transferable. This method cannot be used in cases where a partner's share in a company is represented by a security or book-entry security or a partner's right to participate in the company's management is carried by a security or book-entry security. In other cases, the same procedure as the procedure applied in case of attachment on other rights shall be applied (see Chapter III.7).

#### **III.9.2 Attachment on patents, industrial designs and trademarks<sup>67</sup>**

Patents, industrial rights and trademarks granted to the debtor and registered in his/her name in the patent register, register of industrial designs or in the trademarks register kept by the Industrial Property Office, and licences for use of an invention, industrial design and trademark granted by the debtor to third parties may be included in the inventory (as movable goods) by the judicial officer. All those movable goods shall be inventoried by the judicial officer as soon as he/she learns about them.

The only asset that cannot be attached is the right to origin, which is connected solely with the debtor.

#### **III.9.3 Administration of an immovable asset<sup>68</sup>**

In case of enforcement by means of administration of an immovable good, the judicial officer exercises all rights that otherwise belong to the debtor. In most (more complicated) cases, the judicial officer shall appoint a manager for the administration of the immovable asset.

In the administration process, the manager (or the judicial officer) adopts all measures and takes all steps to ensure proper and successful economic use of the immovable

---

<sup>65</sup> Section 33 Act No. 256/2004 Coll., Capital Market Business Act.

<sup>66</sup> Sections 320 to 320ab) Act No.99/1963 Coll., Civil Procedure Code.

<sup>67</sup> Section 64 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>68</sup> Sections 320b) to 320j) Act No.99/1963 Coll., the Civil Procedure Code.



property. Primarily, he/she shall forbid the debtor to transfer the immovable asset to a third party, to encumber it, to receive benefits or usufruct generated by the immovable asset, to disclose who uses the immovable asset (who has executed a lease agreement on the immovable asset or a part thereof) etc.

The income generated from the administration of the immovable asset by the judicial officer shall be handed over to the creditor to satisfy his/her claim, after deduction of the enforcement costs.

#### **III.9.4 Attachment on an enterprise<sup>69</sup>**

In case of enforcement by attachment of an enterprise, the judicial officer uses a method similar to that used in the administration of the immovable asset, with the exception that he/she can only appoint a person registered in the list of insolvency trustees as the administrator of the enterprise<sup>70</sup>. The administrator is obliged to perform his/her office with professional care and is liable for any damage caused by culpable breach of his/her obligations.

In case of sale of the enterprise, the judicial officer shall proceed in a manner similar to that used in the sale of an immovable asset, in accordance with Chapter III.5., i.e., he/she shall sell the enterprise in an auction.

#### **III.9.5 Suspension of driver's licence<sup>71</sup>**

In case of enforcement of child support arrears (for a minor child or an adult child up to 26 years of age who is a student), the judicial officer may suspend the debtor's driver's licence. As of the date of service of the enforcement order, the debtor may not drive motor vehicles.

If the debtor proves that he/she urgently needs the driver's licence for satisfaction of his/her vital needs (e.g., for payment of alimony or in case of a professional driver), the judicial officer shall cancel the enforcement order. The same procedure shall be applied as soon as the debtor pays the child support arrears.

#### **III.10 Handing over movable assets**

If the decision orders the debtor to surrender or deliver a good to the creditor, the judicial officer shall carry out the enforcement by taking the good with all accessories from the debtor and handing it over to the creditor<sup>72</sup>.

In case of enforcement by means of taking of an asset, the judicial officer must exactly

---

<sup>69</sup> Sections 338f) to 338zr), Act No.99/1963 Coll., the Civil Procedure Code and Sections 70-71 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>70</sup> Section 21 of Act No.182/2006 Coll., on insolvency and methods of its resolution (the Insolvency Act).

<sup>71</sup> Section 71a) Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>72</sup> Sections 345 to 347 Act No. 99/1963 Coll., the Civil Procedure Code.



designate and describe the good that is to be taken from the debtor, in accordance with the enforcement title. If the use of the good requires certain documents, the judicial officer shall also take such documents from the debtor.

The enforcement order shall be served to the debtor only at the time when the act – the removal of the good – shall be carried out. The judicial officer may not take the good without the presence of the debtor (or his/her representative). On the other hand, the debtor's absence during the removal of the good does not prevent carrying out the procedure in the debtor's premises. If it is necessary with regard to the action, the judicial officer (or his/her employee) shall take on an appropriate person, preferably a representative of the municipal authority. The judicial officer shall do so particularly with regard to possible obstruction by the debtor of the performance of the act or the debtor's refusal to voluntarily surrender the good, or if there will be more persons present at the place of performance of the act etc.

If necessary, the judicial officer may make a body search of the debtor and a search of the apartment (the seat or other rooms where the relevant good is to be located). For this purpose, the judicial officer may force access to the debtor's apartment (or other rooms where the good is to be located) or open locked cabinets or other boxes.

The judicial officer may solely take the good from the debtor. If the removed good is in another person's possession, the judicial officer shall request such person to surrender it to the creditor (the judicial officer). If such person does not surrender voluntarily the good, the judicial officer shall proceed against this person by means of attachment on a claim (see Chapter III.7).

If the good is not successfully removed during the enforcement procedure (and the creditor can otherwise procure a good of the same type and quality), the judicial officer shall ask the creditor to procure such good in another manner at the debtor's expense. At the same time, the judicial officer may order the debtor to pay the required costs to the creditor in advance.

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

Unfortunately, this method is not specified in Czech law.

Forced labour is directly prohibited in the Charter of Fundamental Rights and Freedoms<sup>73</sup>. This Charter permits certain deviations<sup>74</sup> but not the performance of work to settle debts.

### **III.12 Eviction**

Enforcement by eviction means that the debtor must vacate a real property or a part

---

<sup>73</sup> Section 9 paragraph 1 Constitutional Act No. 2/1993Coll., Charter of Fundamental Rights and Freedoms.

<sup>74</sup> Section 9 paragraph 2 Constitutional Act No. 2/1993Coll., Charter of Fundamental Rights and Freedoms.



thereof – a building, apartment or another room<sup>75</sup>. Hence, eviction need not relate only to immovable property but also to movable assets – such as temporary structures<sup>76</sup>, but also structures not affixed to the ground by a firm foundation (such as portable work cabins or garages).

If the enforcement title stipulates that the debtor is to vacate a house or an apartment only after being provided with an adequate substitute apartment or accommodation, the enforcement may only be carried out after the creditor presents proof that the specified substitute accommodation has been provided for. The creditor proves this by means of a public document. In case of dispute concerning the substitute accommodation (when the debtor files a complaint or a motion to suspend enforcement), the judicial officer must appropriately identify the actual situation and take other evidence than the evidence proposed by the parties, if required.

After the final and effective date of the enforcement order, the judicial officer shall notify the debtor of the date of eviction, if the debtor does not voluntarily vacate the premises earlier. The judicial officer must serve the eviction notice to the debtor at least 15 days before the eviction date. The judicial officer shall also notify the creditor and the relevant municipal authority. If necessary (particularly if the debtor is not present at the eviction), the judicial officer shall take on an appropriate person to be present at the eviction, preferably a representative of the municipal authority. At the same time, the judicial officer may request assistance of the Police of the Czech Republic at the eviction for the purpose of his/her protection or potential threat to his/her health.

The judicial officer shall carry out the eviction by removing all goods belonging to the debtor and his household members and goods belonging to other persons that are located in the premises with the debtor's consent from the vacated premises. The judicial officer shall evict the debtor and all persons staying with him/her from the vacated premises. If the debtor is not present at the eviction (despite being duly notified of the eviction), the judicial officer shall force access to the vacated premises by removing locks or other obstacles (with a locksmith's assistance).

If the judicial officer finds out in the course of the eviction process that the debtor is laid up due to sickness or the debtor is a woman after childbirth (lying in) or a woman at a higher degree of pregnancy and the eviction could seriously endanger her health, he/she shall suspend the eviction and carry on the eviction only when such obstacle ceases to exist.

After vacation of the premises, the removed goods shall firstly be handed over to the debtor or to a member of his/her household. If nobody who can take over the goods is present at the eviction (or if the present person refuses to take over the goods), the judicial officer shall make an inventory of the goods and hand them over, mostly to a municipal storage. He/she shall then notify the debtor where the goods are stored and

---

<sup>75</sup> Section 340 paragraph 1 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>76</sup> Section 506 paragraph 1 Act No 89/2012 Coll., the Civil Code.



that they are stored at the debtor's expense.

If the enforcement title provides for substitute housing of the debtor, the judicial officer shall move the removed goods to such substitute housing. The same method shall be applied in case of other substitution methods determined by the court (for example, the judicial officer shall move the goods to a hostel etc.). After moving the goods, the judicial officer shall hand over the substitute housing to the debtor or to an adult member of his/her household. If they refuse to take over the substitute housing, the judicial officer shall deposit the keys with the court or a municipal authority and notify the debtor thereof. If the debtor does not begin using the substitute housing within 6 months after depositing the keys without a serious reason, his/her right to the substitute housing shall expire.

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

If the judicial officer carries out enforcement of obligations to perform work and provide output that is substitutable (may be performed by a person other than the debtor), the judicial officer shall ensure that the work is performed by someone else, unless otherwise agreed with the creditor<sup>77</sup>.

Hence, the judicial officer is obliged to ensure under law that the works that are to be performed by the debtor are performed by someone else, as he/she cannot force the debtor to perform them. However, the debtor shall pay out of his/her own funds all costs incurred thereby. If the works are not performed by the creditor himself/herself, the judicial officer shall mostly execute a contract (such as a contract for work), under which the works are performed. As the debtor is fully responsible for payment of the costs, the judicial officer may decide that the debtor shall prepay such costs to the creditor.

In case of an indispensable act, the obligation must be performed solely by the debtor. This can be, for instance, an obligation to create a work of art, to issue a work reference or a certificate of employment, the obligation of an administrative authority to issue a decision on the merits of the case, an obligation to renew water supply to an apartment etc. The debtor may also have an obligation to tolerate something or to refrain from something, such as an obligation to refrain from disturbing by noise etc. In this case, if the debtor fails to fulfil his/her obligation, the enforcement is carried out by ordering a fine. The first fine may not exceed CZK 100,000<sup>78</sup>(EUR 4.000) and the second or any subsequent fine shall be imposed on the debtor by the judicial officer solely upon the creditor's proposal<sup>79</sup>. The amount of those fines is not limited by law. While determining the amount of the fine, the judicial officer shall take into account the nature of the enforced obligation and the debtor's situation. The aim of the imposition of the fine is to make the debtor fulfil the enforced obligation at least

---

<sup>77</sup> Section 72 paragraph 1 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>78</sup> Section 351 paragraph 1 Act No.99/1963 Coll., the Civil Procedure Code.

<sup>79</sup> Section 351 paragraph 1 Act No.99/1963 Coll., the Civil Procedure Code.



additionally. All fines represent the income of the State, which the judicial officer shall always mention while imposing the fine<sup>80</sup>.

### III.14 Sequestration of goods

Sequestration of goods during the enforcement procedure is always carried out by sale of movable assets (see Chapter III.2).

The only exception are perishable goods<sup>81</sup>. The judicial officer shall take these goods from the debtor and sell them outside auction by publishing information that they are available for purchase for a designated price. In case of failure to sell such perishable goods (and if the creditor refuses to take over the goods for such designated price), the judicial officer shall return them to the debtor.

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

According to Czech law, enforcement can be carried out on the basis of an enforceable decision of a state other than EU Member States. The conditions of such enforcement are set out in a bilateral or multilateral international agreement that is binding for the Czech Republic (mostly an agreement on legal aid). A declaration on enforceability of a decision or the possibility to enforce a decision without this special procedure also arises from the contents of international agreements.

In a specific case where the Czech Republic is not bound by an international agreement with a state, whose decision is to be enforced in the territory of the Czech Republic, such enforcement shall be carried out in accordance with Sections 14–16 and Sections 17–19 of the Act on International Private Law<sup>82</sup>.

The enforcement of foreign arbitral awards is also governed by the above-mentioned principles, i.e., in the absence of an international agreement, the enforcement of foreign arbitral awards is governed by Sections 117 – 122 the Act on International Private Law<sup>83</sup>.

## PART IV: ENFORCEMENT COSTS

### IV.1 The costs of enforcement

The judicial officer's costs are enumerated in the Enforcement Code<sup>84</sup> and include the judicial officer's fee, reimbursement of lump-sum or out-of-pocket expenses incurred in connection with the enforcement, compensation of time spent during enforcement, fees for service of documents and reimbursement of costs incurred by the

<sup>80</sup> Section 17 Decree of the Ministry of Justice No.418/2001 Coll., on procedures for the performance of execution and other activities.

<sup>81</sup> Section 326b) Act No.99/1963 Coll., the Civil Procedure Code.

<sup>82</sup> Sections 14-16 and 17-19 Act No. 91/2012 Coll., on Private International Law.

<sup>83</sup> Sections 117-122 Act No. 91/2012 Coll., on Private International Law.

<sup>84</sup> Section 87 paragraph 1 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

administrator of the enterprise. If the judicial officer (or the administrator of the enterprise) is a payer of value added tax, the value added tax also represents enforcement cost<sup>85</sup>.

In addition to the enforcement costs, the creditor is entitled to the reimbursement of all costs incurred by him/her in connection with the enforcement of his/her claim (court fees, attorney's and interpreter's fees, costs of evidence etc.). Both the enforcement and the creditor's costs are reimbursed by the debtor.

The judicial officer's fee for the performance of enforcement activities represents the remuneration for the activities personally performed by the judicial officer or his/her employees<sup>86</sup>. In addition to the enforcement activities, the judicial officer is also entitled to perform additional activities, for which he/she is also entitled to a fee in accordance with the Enforcement Tariff. As a part of those additional activities, the judicial officer is entitled to provide legal aid to the parties (not before the issuance of the enforcement title)<sup>87</sup>, to draft enforcement records and to take goods into custody<sup>88</sup>, to perform other activities under the authorisation of the court (service of documents to the court<sup>89</sup>), and organise voluntary auctions upon the owner's motion<sup>90</sup>.

According to the Enforcement Tariff, the amount of the judicial officer's fee depends on the type of the enforced obligations and the amount of the enforced claim. In case of enforcement of monetary performance, the fee amounts to a percentage of the recovered performance. In case of enforcement of non-monetary performance, the fee amount depends on the enforcement method and the number of attached goods.

#### **IV.1.1 Enforcement of monetary performance**

The fee in case of enforcement of monetary performance is based on the amount successfully recovered by the judicial officer (minus out-of-pocket expenses and the creditor's costs) with certain deviations relating to sale of movable goods (in case of payment of all claims, the fee shall be calculated on the basis of all paid claims), sale of immovable property or enterprise (the fee is calculated on the basis of all satisfied claims – of the mortgagee, additional creditor etc.) and in respect of recurrent performance (where the fee is calculated on the basis of the sum of performance

---

<sup>85</sup> Act No. 588/1992 Coll., on value added tax.

<sup>86</sup> Section 1 of Decree of the Ministry of Justice No.330/2001 Coll., on the remuneration and compensation of the judicial officers, on the remuneration and reimbursement of cash expenses of the company administrator and on the conditions of liability instance for damages caused by the judicial officer (hereinafter the "Execution Tariff").

<sup>87</sup> Section 16 of Decree No.330/2001 Coll., Execution Tariff.

<sup>88</sup> Section 17 of Decree No.330/2001 Coll., Execution Tariff

<sup>89</sup> Sections 18 to 22a) of Decree No.330/2001 Coll., Execution Tariff.

<sup>90</sup> Section 23 of Decree No.330/2001 Coll., Execution Tariff.

values, max. for 5 years<sup>91</sup>).

The fee rate for enforcement of payment of a monetary amount is as follows:

|   |      |
|---|------|
| up to the base amount of CZK 3,000,000 (EUR 120,000) .....                      | 15%, |
| over CZK3,000,000 (EUR 120,000) up to 40,000,000 (EUR 1.6 million). .....       | 10%, |
| over CZK 40,000,000 (EUR 1.6 million) up to CZK 50,000,000 (EUR 2 million)..... | 5%,  |
| over CZK 50,000,000 (EUR 2 million) up to CZK 250,000,000 (EUR 10 million)..... | 1%.  |

The minimum judicial officer's fee amounts to CZK 2,000 (EUR 80)<sup>92</sup>.

The application of the above-mentioned provisions was significantly limited by Judgment of the Constitutional Court of 2007<sup>93</sup>, which expressed the opinion that the judicial officer's fee amount should depend on the degree of complication, responsibility and demanding nature of the enforcement activity, based on the individual types and methods of enforcement. In this respect, the Constitutional Court permitted the adoption of new legislation, based on those principles. However, this new amendment to the Tariff was not accepted by the Ministry of Justice of the Czech Republic. Therefore, the Enforcement Tariff is still based on the principle of recovered performance in accordance with the above-mentioned table, applicable to monetary performance. In practice, however, this situation has caused certain problems since 2007, particularly in cases where the judicial officer need not exert major efforts in the enforcement of the creditor's claim. In some situations, the judicial officer's fee is reduced upon a creditor's request.

Like the judicial officer's fee, the reimbursement of travelling expenses, of the costs of service of documents and the compensation for time spent by enforcement is limited by the amount specified by the Enforcement Tariff<sup>94</sup>. The reimbursement of out-of-pocket expenses is determined by a lump-sum amount of CZK 3,500 (EUR 120), which includes, namely, court and other fees, travelling expenses, postage, payments to carriers of shipments, telecommunication fees, expert opinions transcripts, photocopies and reimbursement of cost of entering or obtaining data from central information systems<sup>95</sup>.

If the travelling expenses and compensation for time spent exceed the lump-sum

---

<sup>91</sup> Section 5 paragraphs 1-4 of Decree No.330/2001 Coll., Execution Tariff.

<sup>92</sup> Section 6 of Decree No.330/2001 Coll., Execution Tariff.

<sup>93</sup> Judgment of the Constitutional Court of 1.3.2007 in the matter of a motion to repeal Section 5, Paragraph 1, Sentence 2 of Decree No. 330/2001 Coll., as amended, and a motion to repeal Article II, Paragraph 1 of Decree No. 233/2004 Coll., Amending Decree No. 330/2001 Coll., on the remuneration and compensation of the judicial officers, on the remuneration and reimbursement of cash expenses of the company administrator and on the conditions of liability instance for damages caused by the judicial officer (hereinafter the "Execution Tariff").

<sup>94</sup> Section 90 paragraph 1 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>95</sup> Section 13 paragraph 1 of Decree No.330/2001 Coll., Execution Tariff.



amount, the creditor shall pay such expenses to the judicial officer and the latter must duly document their amount (e.g., by files, invoices, receipts). The amount of reimbursement of travelling expenses is limited to CZK 1,500 (EUR 60) per trip to the debtor's residence (seat or place where the debtor may stay etc.), in cases where it is different from the judicial officer's seat. If the judicial officer charges expenses of a joint trip to more enforcement procedures, he/she is only entitled to a proportionate part of the reimbursement. In addition to the travelling expenses, the judicial officer is also entitled to compensation for time spent to travel to and from the place of enforcement<sup>96</sup>.

As noted above, the enforcement costs and the creditor's costs are paid by the debtor in all cases. If the debtor pays the enforced claim within 30 days after the request for fulfilment of the enforced obligation<sup>97</sup> and prepays reduced enforcement costs and the creditor's costs, the judicial officer is entitled to the determined fee reduced by 50% (or to 30%, in case of non-monetary performance).

If the judicial officer's authorisation to carry out a specific enforcement procedure ceases due to a decision of the enforcement court to exclude him/her (such as suspension of enforcement or change of the judicial officer), his/her fee shall amount to CZK 2,000 (EUR 80). If, however, the judicial officer was not authorised to carry on the enforcement or his authorisation has expired due to his own fault, he/she shall not be entitled to any fee.

The judicial officer shall enforce the enforcement costs and the creditor's costs by a procedural act – an order to pay the enforcement costs – by any method used in the enforcement of monetary performance<sup>98</sup>.

#### IV.1.2 Enforcement of non-monetary performance

In case of enforcement of non-monetary performance, the judicial officer's fee depends on the method of carrying out the enforcement or on the quantity of the attached goods or the performed acts.

In case of **enforcement by eviction**, the judicial officer is entitled to a fee in the amount of CZK 10,000 (EUR 400) for each vacated immovable property, building, apartment or room<sup>99</sup>. When determining the number of vacated immovable assets, the judicial officer shall take into account not only the actual number of the immovable assets, but primarily the wording of the enforcement title.

---

<sup>96</sup> Section 14 of Decree No.330/2001 Coll., Execution Tariff.

<sup>97</sup> Section 46 paragraph 6 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>98</sup> Section 87 paragraph 4 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).

<sup>99</sup> Section 7 of Decree No.330/2001 Coll., Execution Tariff.



The fee for **enforcement by removing movable goods** amounts to 15% of the value of each removed good or set of goods, but at least to CZK 2,000 (EUR 80)<sup>100</sup>. The judicial officer shall determine the value of the good or set of removed goods mostly on the basis of the enforcement title (if it is stated therein). If the price is not stated in the enforcement title or the judicial officer cannot determine it otherwise, he/she shall have the good valued by a certified expert.

The fee for the **enforcement of a collective good**, in cases where the latter is to be sold and the proceeds from the sale are to be divided among co-owners, shall be calculated by the same method as the method used in case of monetary performance, with the proceeds from the sale of the goods taken as the basis for determination of the fee amount<sup>86</sup>. If a collective good is to be divided otherwise than by sale, the judicial officer's fee shall amount to CZK 6,000 (EUR 240) for each divided good<sup>101</sup>.

The judicial officer's fee for **enforcement of performance of works and provision of output** amounts to CZK 6,000 (EUR 240) for each enforcement title ordering the performance of works and provision of output<sup>102</sup>.

#### IV.1.3 Prepayment of enforcement costs

With the exception of enforcement of child support, the judicial officer is entitled to demand prepayment of enforcement costs from the creditor, determining at the same time the amount and time limit for payment<sup>103</sup>. However, such amount may not exceed 50% of the lump-sum reimbursement of out-of-pocket expenses (CZK 3,500, EUR 140), plus 50% of the enforced amount, in case of monetary claims, and 30% of the fee for the specific enforcement procedure, in case of non-monetary claims. The unused part of the prepayment made by the creditor to the judicial officer is deemed to be the creditor's costs and shall not be refunded by the judicial officer.

If the creditor fails to make the prepayment within the stipulated time limit, the judicial officer shall suspend the enforcement<sup>104</sup>.

### PART V: LINKS, LITERATURE AND SOURCES

- Constitutional Act No.2/1993 Coll., Charter of Fundamental Rights and Freedoms.
- Act No. 120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).
- Act No.99/1963 Coll., the Civil Procedure Code.

<sup>100</sup> Section 8 of Decree No.330/2001 Coll., Execution Tariff.

<sup>101</sup> Section 9 of Decree No.330/2001 Coll., Execution Tariff.

<sup>102</sup> Section 10 of Decree No.330/2001 Coll., Execution Tariff.

<sup>103</sup> Section 12 of Decree No.330/2001 Coll., Execution Tariff.

<sup>104</sup> Section 55 paragraph 6 Act No.120/2001 Coll., on Judicial Officers and the Enforcement Activity (the Enforcement Code).



- Act No.89/2012 Coll., the Civil Code.
- Act No.40/2009 Coll., the Criminal Code.
- Act No.141/1961 Coll., the Criminal Procedure Code.
- Act No.358/1992 Coll., the Notarial Code.
- Act No.150/2002 Coll., the Administrative Procedure Code.
- Act No.280/2009 Coll., the Tax Code.
- Act No.500/2004 Coll., the Administrative Procedure Code.
- Act No.119/2001 Coll., setting rules for cases of concurrent executions of decisions.
- Act No.292/2013 Coll., on special judicial proceedings.
- Act No.182/2006 Coll., on insolvency and methods of its resolution (the Insolvency Act).
- Act No.90/2012 Coll., on business companies and cooperatives (the Business Corporations Act).
- Act No.256/2004 Sb., Capital Market Business Act.
- Act No.100/2004 Sb., Act on Trade in Endangered Species, in connection with Council Regulation (EC) No. 338/97).
- Act No.121/2000 Sb., on Copyright, on Rights Related to Copyright and on Amendments to Certain Acts (Copyright Act).
- Act No. [266/2006 Sb.](#), Employee Accident Insurance Act.
- Act No.273/2008 Coll., on the Police of the Czech Republic.
- Act No. 91/2012 Coll., on Private International Law.
- Act No. 588/1992 Coll., on value added tax.
- Act No. 254/2004 Sb., on the restriction of cash payments.
- Act No. 21/1992 Coll., on Banks.
- Act No. 256/2013 Coll., on Real Estate Cadastre (Cadastral Act).
- Act No. 151/1997 Coll., on Property Valuation.
- Act No.187/2006 Coll., on health insurance.
- Government Decree No.595/2006 Coll., on the method of calculating the basic amount that may not be deducted from the liable person's monthly wage during enforcement, and on determining the amount above which the wage is deductible without restriction (Regulation on non-recoverable amounts).
- Decree of the Ministry of Justice No.330/2001 Coll., on the remuneration and compensation of the judicial officers, on the remuneration and reimbursement

of cash expenses of the company administrator and on the conditions of liability instance for damages caused by the judicial officer (the Execution Tariff).

- Decree of the Ministry of Justice No.418/2001 Coll., on procedures for the performance of execution and other activities.
- Instruction of the Ministry of Justice of 21 August 1996, Ref.Nr.1360/95 - OOD, which issues the Order for Court Clerks.
- Judgment of the Constitutional Court of 1.3.2007 in the matter of a motion to repeal Section 5, Paragraph 1, Sentence 2 of Decree No. 330/2001 Coll., as amended, and a motion to repeal Article II, Paragraph 1 of Decree No. 233/2004 Coll., Amending Decree No. 330/2001 Coll., on the remuneration and compensation of the judicial officers, on the remuneration and reimbursement of cash expenses of the company administrator and on the conditions of liability instance for damages caused by the judicial officer (the “Execution Tariff”).
- Explanatory Memorandum to the Government proposal to the Act on Judicial Officers and the Enforcement Activity.