



# Estonia

## Narrative National Report

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etc.	et cetera (= and other similar things)
VAT	value added tax

INTRODUCTORY INFORMATION ON ENFORCEMENT SYSTEM
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The name of the enforcement officer in Estonia is „kohtutäitur“ and “kohtutäituriid”.



All enforcement officers are self-employed professionals. The national organization is Estonian Chamber of Bailiffs and Trustees in Bankruptcy (address: 16 Tartu maantee, 10117 Tallinn, phone: +372 64 63 773, e-mail [info@kpkoda.ee](mailto:info@kpkoda.ee), URL: <https://kpkoda.ee/en/>).

The enforcement officer carries out the following activities:

- Attachment of movable goods in the hands of the debtor;
- Attachment of movable goods in the hands of a third party;
- Attachment of immovable;
- Attachment of earnings;
- Attachment in the hands of a third party of funds owed to the debtor;
- Attachment of intangible goods other than the funds owed to the debtor;
- Freezing and/or collection of tangible movable goods that should be handed over by the debtor according to a court decision;
- Attachment of motor vehicles;
- Attachment of ships and vessels;
- Attachment of airplanes;
- Attachment of crops;
- Attachment of goods placed in a safe;
- Evictions;
- Physical (as opposed to Internet) forced auction sale of tangible movable goods attached by the judicial officer;
- Internet forced auction sale of tangible movable goods attached by the judicial officer;
- Physical (as opposed to Internet) forced auction sale of intangible movable goods attached by the judicial officer;
- Internet forced auction sale of intangible movable goods attached by the judicial officer;
- Physical (as opposed to Internet) forced auction sale of businesses attached by the judicial officer;
- Internet forced auction sale of businesses attached by the judicial officer;
- Physical (as opposed to Internet) forced auction sale of immovable goods attached by the judicial officer;
- Internet forced auction sale of immovable goods attached by the judicial officer;

- Distribution to creditors of monies collected during the forced auction sale of a movable good;
- Distribution to creditors of monies collected during the forced auction sale of an immovable good.

The judge carries out the following activities:

- Provisional measures on tangible movable goods of the debtor;
- Provisional measures on intangible movable goods of the debtor;
- Setting up of a provisional judicial guarantee on an immovable good of the debtor;
- Setting up of a provisional judicial guarantee on a business of the debtor;
- Setting up of a provisional judicial guarantee on shares, stocks and securities of the debtor.

The police officer carries out the following activities:

- Arrest of persons according to a court decision;
- Bringing physically a party to a court hearing.

The enforcement officer has the monopoly of all the enforcement of court decisions and other enforceable titles in civil and criminal matters.

## **PART I: LEGAL FRAMEWORK**

### **I.1 Legislation affecting civil enforcement**

The procedure for the enforcement of enforceable titles is governed, above all, by the Code of Enforcement Procedure<sup>1</sup>, which provides the rights and obligations of debtors, claimants and enforcement officers and the rules for the enforcement of enforceable titles. The bases for the official activities of enforcement officers and the procedure for remuneration of enforcement officers have been provided by the Enforcement Officers Act<sup>2</sup>. Matters related to the official activities of enforcement officers are governed, in addition to the Enforcement Officers Act, by the Enforcement Officers Regulation<sup>3</sup>. Upon conducting enforcement proceedings, enforcement officers must also follow, among other things, the Code of Civil Procedure<sup>4</sup>, above all in matters concerning the service of documents. Where bankruptcy proceedings or debt restructuring proceedings have been initiated against the debtor, enforcement proceedings must be conducted following also legislation on insolvency.

### **I.2 Enforceable titles**

The list of enforceable titles has been provided for in subsection 1 of § 2 of the Code

<sup>1</sup> Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>2</sup> Bailiffs Act, available on: <https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>3</sup> Enforcement Officers Regulation, available on: <https://www.riigiteataja.ee/akt/125092019005>

<sup>4</sup> Code of Civil Procedure, available on: <https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>



of Enforcement Procedure and enforcement officers can initiate enforcement proceedings only on the basis of the documents specified in the list of enforceable titles. In addition, the enforcement officer must also check whether the document has been issued by a competent body and has entered into force. Where the document is not set out in the list of enforceable titles, the enforcement officer cannot initiate enforcement proceedings on the basis thereof. Enforcement documents can be conditionally classified as follows:

- judgments and orders;
- decisions of various alternative dispute resolution bodies;
- sentencing decisions;
- tax notices;
- statements of compulsory auctions;
- enforcement officers' decisions on enforcement officers' fee and invoices for notary fees and notarized agreements (contracts approved by notary in which both sides of the affair are obligated to immediate compulsory execution if the requirements of the contract are not met).

Enforceable titles are (subsection 1 of § 2 of the Code of Enforcement Procedure):

1) court judgments and orders in civil matters which have entered into force or are subject to enforcement without delay; judgments and orders of administrative courts which have entered into force or are subject to enforcement without delay and concern the costs of proceedings and other public law claims for payment, or which concern awards of compensation for damage caused in public law relationships and securing the fulfilment of financial claims; court judgments and orders which have entered into force in criminal matters concerning criminal sanctions consisting of claims for payment, procedural expenses and other claims for payment in criminal proceedings; court judgments and orders which have entered into force in misdemeanour matters concerning fines imposed as sanctions for misdemeanours, the costs of misdemeanour proceedings and other public law claims for payment;

2) decisions and orders of the Unified Patent Court which have entered into force and are specified in Article 82 of the Agreement on a Unified Patent Court;

3) decisions or official documents by courts of foreign countries declared enforceable in Estonia or subject to enforcement without recognition;

4) decisions of arbitral tribunals which are declared enforceable; decisions of the Court of Arbitration of the Estonian Chamber of Commerce and Industry and the Court of Arbitration of the Chamber of Notaries which have entered into force;

5) decisions of tenancy committees which have entered into force; decisions of the Public Procurement Review Committee concerning claims for payment which have entered into force; decisions of the court of honour of the Estonian Bar Association which have entered into force; decisions of labour dispute committees which have entered into force, decisions of labour dispute committees subject to enforcement

without delay and orders on approval of compromise; agreements concluded in the course of conciliation proceedings and approved and declared enforceable in accordance with the procedure provided for in Chapter 62<sup>1</sup> of the Code of Civil Procedure; agreements validated by a conciliation body in accordance the procedure provided for in § 26 of the Conciliation Act; notarially authenticated agreements specified in subsection 3 or 4 of § 14 of the Conciliation Act;

6) agreements concluded in proceedings conducted by out-of-court dispute settlement bodies provided by law, including agreements approved by the Chancellor of Justice in conciliation proceedings; decisions and orders of out-of-court proceedings authorities concerning fines imposed as sanctions for misdemeanours, claims for payment of cautionary fines imposed by written caution proceedings, deterrent fines imposed by alternative proceedings, costs of misdemeanour proceedings and other public law claims for payment; orders of investigative bodies or of the Prosecutor's Office for the collection of information needed to impose fines to the extent of assets or to decide confiscation of property which was obtained by a criminal offence, and for the reimbursement of the expenses relating to criminal proceedings in pre-court proceedings, and orders of the Prosecutor's Office for recovery of compensation for damage caused in offence proceedings; administrative decisions on the basis of which penalty payments and costs of substitutive enforcement are collected;

7) administrative decisions issued by tax authorities concerning compulsory enforcement of tax liabilities and other financial obligations; precepts for the collection statutory fees issued by the administrative agency which performed an act subject to a statutory fee; decisions made under the procedure for acquisition of immovables in the public interest, including under expropriation proceedings; decisions on the imposition of a fine for delay made upon monitoring of parking; in the cases provided by law, administrative decisions for the performance of financial obligations in public law;

8) reports on compulsory auctions on the basis of which a person who purchases an immovable at an auction is entered in the land register as the owner of the immovable, upon reclamation of possession of the immovable;

9) enforcement officers' decisions on enforcement officers' fee and enforcement costs and imposition of penalty payments; invoices for notary fees for notarial acts and expenses relating thereto;

10) notarially authenticated agreements concerning financial claims according to which the debtor has consented to submit to immediate compulsory enforcement after the claim falls due; notarially authenticated agreements concerning claims for maintenance support according to which the debtor has consented to submit to immediate compulsory enforcement; notarially authenticated agreements which prescribe the obligation of the owner of an immovable or a ship entered in the register of ships or an object encumbered with a registered security over movables to submit to immediate compulsory enforcement for the satisfaction of a claim secured by the mortgage, maritime mortgage or registered security over movables; notarially



authenticated agreements which prescribe the obligation of the owner of construction works or part of construction works which is deemed a movable to submit to immediate compulsory enforcement for the satisfaction of a claim secured by a pledge contract concerning the construction works or part thereof; notarially authenticated agreements which prescribe the obligation of the owner of an immovable to submit to immediate compulsory enforcement for the satisfaction of a financial claim secured by a real encumbrance;

11) agreements entered into in writing or decisions of county governors or the Director General of the Land Board which prescribe the obligation of the owner of an immovable to submit to immediate compulsory enforcement for the satisfaction of a financial claim secured by a real encumbrance;

12) decisions of the Council, the Commission or the European Central Bank issued on the basis of Article 299 of the Treaty on the Functioning of the European Union which impose a pecuniary obligation on persons other than States; decisions of the Office for Harmonization in the Internal Market specified in Article 82 of Council Regulation (EC) No 40/94 on the Community trade mark and Article 71 of Council Regulation (EC) No 6/2002 on Community designs.

Court decisions and decisions of a labour dispute committee or a tenancy committee are accepted for enforcement only where they bear a notation on entry into force. Where the conclusion of an enforceable title mentions that it is a decision subject to enforcement without delay, a notation on entry into force will not be appended. Where the enforcement officer can technically verify the entry into force of a court decision or another enforceable title, the enforcement officer can also accept for enforcement an enforceable title to which no notation on entry into force has been appended.<sup>5</sup> Where a decision issued in a Member State and subject to enforcement without recognition is submitted to the enforcement officer, the decision or certificate must have been drawn up in Estonian or English or translated to Estonian or English. The translation must be made by a sworn translator. In addition to the enforceable title, the claimant must also submit an application for enforcement in order to initiate enforcement proceedings. An application for enforcement need not be submitted where the enforceable title is a decision on payment of enforcement officer's fee or enforcement costs.<sup>6</sup>

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

When initiating enforcement proceedings, the enforcement officer must serve an enforcement notice and a copy of the enforceable title on the debtor. The enforcement officer must serve documents following the provisions concerning the service of procedural documents in civil proceedings. To serve procedural documents, the enforcement officer can use an employee of the enforcement officer's office or

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<sup>5</sup> Section 30 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>6</sup> Section 23 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



the assistance of a postal service provider. It is important in enforcement proceedings that the enforcement officer serves an enforcement notice and an instrument of seizure of property and a report on an auction as well as the decisions made by the enforcement officer on the complaints filed against his/her activities and other documents provided by law on parties to the enforcement proceedings.<sup>7</sup> To serve documents in civil proceedings, the assistance of the enforcement officer can be used.

In expedited proceedings for orders for payment and in contentious civil claim proceedings, parties to the proceedings can contact the enforcement officer without the mediation of the court<sup>8</sup>. Pursuant to § 315<sup>1</sup> of the Code of Civil Procedure, the court can assign the duty to serve procedural documents to a party to the proceedings, but in such a case the party to the proceedings may serve the procedural document only through the enforcement officer. The assistance of the enforcement officer in serving court documents is not used in criminal matters. A party to the proceedings must select an enforcement officer based on the area served by the enforcement officer<sup>9</sup>, but it does not affect the validity of service where it comes out in the course of the service that the actual residence or seat of the recipient is located elsewhere. The enforcement officer can also choose the manner of service where the court has provided no specific guidance on the manner of service (e.g., service in person). Within the scope of court proceedings, orders for payment and other documents (including court judgments) drawn up in contentious civil claim proceedings are generally served through the enforcement officer.

The enforcement officer generally has no information about the content of the document as documents are sent to him/her in a closed envelope. Service of documents other than those concerning court proceedings is official service, the provision of which is not mandatory for the enforcement officer. The documents usually submitted to the enforcement officer for service are bankruptcy cautions and declarations of cancellation of contracts, but it is also possible to serve through the enforcement officer other documents or letters the receipt of which must be certified later.

In addition, documents can be served on court premises, electronically, by non-registered letter with the acknowledgement of receipt and placement in a post box. In exceptional cases, a procedural document can be deemed served by sending it and publishing it publicly.<sup>10</sup> An appropriate place for serving a procedural document

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<sup>7</sup> Section 10 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>8</sup> Section 315 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>9</sup> Provided for in § 1 of the Enforcement Officers Regulation Harju area, which covers Harju County; Viru area, which covers Lääne-Viru and Ida-Viru Counties; Tartu area, which covers Tartu, Viljandi, Jõgeva, Põlva, Valga and Võru Counties; Pärnu area, which covers Pärnu, Saare, Hiiu, Lääne, Järva and Rapla Counties.

<sup>10</sup> Manners of service of procedural documents have been provided by Chapter 34 and special cases by Chapter 35 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>



publicly is the official publication *Ametlikud Teadaanded*. A procedural document may also be served through a court security guard or, in accordance with the internal rules of the court, another competent court official or police authority or another state agency or local authority or municipal agency as well as through another person to whom the court assigns the duty of service by agreement<sup>11</sup>. Pursuant to the Code of Civil Procedure, a procedural document may be served at any time and in any place where the person stays<sup>12</sup>. Pursuant to a restriction in force in enforcement proceedings, enforcement actions may be performed on days off and in the night time only in cases of urgency<sup>13</sup>, but legal literature has found that service at weekends on the business premises or in the workplace of the addressee is not prohibited where work is also performed at weekends<sup>14</sup>.

The enforcement officer has the right to request data about the address of the debtor's residence from a third party, controller of a state or local authority's database and registers granted to the use of the enforcement officer. Upon serving procedural documents other than those concerning court proceedings, the enforcement officer may not exercise the rights granted to him/her for performing official acts and, upon serving out-of-court procedural documents, the enforcement officer cannot use the registers that he/she uses when conducting enforcement proceedings. The enforcement officer serves out-of-court documents pursuant to the information provided by the person who orders the service of the document.

A delivery notice is prepared concerning the service of a document<sup>15</sup>, which sets out the time and place of service of the document, and the name of the person on whom the document had to be served. Where the document was served on a person other than the recipient, the name of the person to whom the document was handed over and the reason why the document was handed over to such person is also mentioned. In the case of refusal to receive the document, a notation is made to such effect and information is appended on where the document was left. A delivery notice must also set out the name, position and signature of the person who served the document, the name and signature of the person who received the document and information concerning identification of the person, and date of receipt of the document.

Where a procedural document cannot be served on the recipient personally, the document may be served on the recipient's family member (spouse, parents, grandparents, children, siblings, partner, foster children, aunt) of at least 14 years of age who resides on the recipient's residential premises or on a person who serves the

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<sup>11</sup> Section 315 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>12</sup> Section 309 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>13</sup> Section 30 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>14</sup> V. Köve; I. Järvekülg, J. Ots. M. Torga - Annotated Edition of Code of Civil Procedure Part II. Section 309, comment 3.2.c

<sup>15</sup> Subsection 3 of § 313 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>



family (domestic worker, babysitter, etc.). A procedural document may also be served on the flat owners' association where the recipient's residential premises are located or to the administrator of the object of common ownership or the recipient's lessor, employer or another person to whom the recipient provides services under a contract. A document is deemed served on a legal person where the document is delivered to an employee usually staying on the business premises<sup>16</sup>.

Where a procedural document cannot be served, it can be placed in the post box belonging to the residential premises or deposited with a post office or rural municipality or city government or with the office of a county court. An enforcement officer can deposit a procedural document in their office. A notice concerning depositing is sent to or left for the recipient and it must state who sent the document and, where terms of proceedings begin to run as of depositing, this must be indicated in the notice. Where this is impossible, the notice is attached to the door of the residential premises, business premises or place of stay of the recipient, or issued to a person residing in the neighbourhood for passing it on to the recipient.<sup>17</sup> Upon refusal to accept a document, the document is deemed served on the person as of the refusal to accept it. In such a case the document is left on the residential or business premises of the recipient or placed in the post box of the recipient<sup>18</sup>.

Where the address of the recipient is not entered in the register or the person does not live at the address entered in the register and the place of stay of the recipient is not known and the document cannot be served on a representative of the person, the procedural document may be served by public announcement.<sup>19</sup>

Courts can serve documents electronically through the e-file. Documents can also be served electronically to the e-mail address disclosed by the recipient. Where any disputes arise in respect of serving a document, the service must be certified. Upon serving an out-of-court document, the service performed by the enforcement officer is of a higher evidential value than another manner of service, e.g., a postal service provider, registered letter.

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

Upon conducting enforcement proceedings, a party to the enforcement proceedings can file a claim for the declaration of compulsory enforcement inadmissible<sup>20</sup>, a complaint about the decision/activities of the enforcement officer<sup>21</sup>, a claim for the

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<sup>16</sup> Sections 322 and 323 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>17</sup> Section 327 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>18</sup> Section 325 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>19</sup> Section 317 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>20</sup> Section 221 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>21</sup> Section 217 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



declaration of an auction invalid<sup>22</sup> and a claim upon acceptance of an enforceable title for enforcement where legal succession has been applied<sup>23</sup>; a third party can file a claim for the release of property from seizure or for the declaration of compulsory enforcement inadmissible in another manner<sup>24</sup>.

The debtor can file a claim against a claimant for the declaration of compulsory enforcement inadmissible, in particular for the reason that the claim has been satisfied, deferred or set off, but it is important to mention that the purpose of the action is to eliminate the enforceability of an enforceable title, not to eliminate the enforceable title itself or its entry into force. In order to declare compulsory enforcement inadmissible, a claim must be filed with the court and the action can be filed until the end of enforcement proceedings.<sup>25</sup>

A complaint may be filed about a decision or the activities of the enforcement officer within 10 days of the day when the complainant becomes or should have become aware of the decision or action. Upon contestation of a decision or the activities of the enforcement officer, the enforcement officer reviews the filed complaint within 15 days of filing thereof and makes a decision within 10 days of the review. A party to the proceedings may file an appeal against the decision of the enforcement officer with a county court within 10 days of the service of the decision. Upon contestation of a decision of the enforcement officer, the appeal must be filed with the court in the judicial district of which the compulsory enforcement is conducted.<sup>26</sup> Upon contestation of a decision or the activities of the enforcement officer, the enforcement officer has been granted the right to suspend enforcement proceedings<sup>27</sup>, but, upon suspending enforcement proceedings, the enforcement officer must assess the impact of the objections in the appeal on the pending enforcement proceedings.

Where a third party claims upon seizure that the thing subject to seizure is in their ownership, the person may file a claim with the court for the release of property from seizure or for the declaration of compulsory enforcement inadmissible for another reason. The action must be filed with the court in the judicial district of which the compulsory enforcement is conducted. The action is filed against the claimant and the debtor. The law provides no term for filing the action, but the valid presumption is

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<sup>22</sup> Section 223 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>23</sup> Section 220 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>24</sup> Section 222 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>25</sup> Section 221 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>26</sup> Section 217 and 218 of the the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>27</sup> Clause 46 (2) 1) of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





that the release of a thing from seizure can be applied for until the sale thereof.<sup>28</sup> The person against whom a claim for compulsory enforcement has been filed due to presuming legal succession has the right to contest, with a claim, the acceptance of an enforceable title for enforcement within 10 days of serving the enforcement notice.<sup>29</sup> After an auction has been held, a party to the enforcement proceedings may file a claim with the court for the declaration of the auction invalid. The action must be submitted within 30 days of serving a report on the auction.<sup>30</sup> Upon filing a claim, a party to the proceedings can apply to the court for suspending enforcement proceedings<sup>31</sup> and a decision on suspending the enforcement proceedings is made by the court. Filing of objections is not limited.

### **I.5 Postponement, suspension and termination of enforcement**

The enforcement officer may postpone an enforcement action on the basis of an application of the claimant or a corresponding court decision or when the person conducting the enforcement proceedings is changed.<sup>32</sup>

The court may suspend enforcement proceedings at the request of a party to the proceedings where doubt has been cast on the enforceability of an enforceable title or legality of an enforcement action. Enforcement proceedings or an enforcement action can also be suspended in a situation where there is a risk that property belonging to a third party, including to the debtor's spouse, might be seized or sold in enforcement proceedings. The court can also suspend, at the request of a party to the proceedings, only one particular enforcement action or determine the property in respect of which compulsory enforcement is prohibited. Enforcement proceedings or an enforcement action may be postponed where the failure to suspend may result in irreparable damage to the rights of a person. However, account must also be taken of the objectives and interests of the claimant.

The enforcement officer suspends enforcement proceedings upon submission of a court decision where, according to the decision, the enforcement proceedings or the enforcement action must be suspended or where the decision reveals that the enforcement action may be performed or the enforcement proceedings may be continued only against security.<sup>33</sup> The enforcement officer must send the decision on suspension of enforcement proceedings to the debtor and the claimant. A court

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<sup>28</sup> Section 222 of Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>29</sup> Section 220 of Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>30</sup> Section 223 of Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>31</sup> Subsection 378 (1) of the Code of Civil Procedure, available on:  
<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>32</sup> Section 44 of Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>33</sup> Clauses 46 (1) 2) and 3 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



decision that orders suspension of enforcement proceedings can be contested. Where an application for suspending enforcement proceedings is filed as a petition for securing a claim, the court resolves the petition no later than on the day following the date of filing the petition<sup>34</sup>. The law does not prescribe any maximum term for suspending enforcement proceedings, but in most cases the court suspends the proceedings or the action until the entry into force of the final decision.

In addition to the foregoing, the court may suspend enforcement proceedings on the basis of an application of the debtor where continuation of the proceedings is unfair in respect of the debtor<sup>35</sup>. The court has held that in such a case the suspension of enforcement proceedings cannot be very long-term, but lasts generally for months, not for years.<sup>36</sup>

Where enforcement proceedings have been suspended or an enforcement action has been postponed at the request of a claimant, an enforcement officer can continue the proceedings on the basis of an application of the claimant. Proceedings suspended on the basis of a court decision cannot be continued before the basis for the suspension has ceased to exist. Enforcement proceedings can be suspended at the request of a third party where the enforcement officer has seized property that belongs to the third party.

The rights of the enforcement officer to suspend enforcement proceedings are limited and the enforcement officer may only suspend enforcement proceedings where a complaint is filed against the activities of the enforcement officer; where the debtor becomes seriously ill or in-patient health services are provided to the debtor as well as where the debtor is in compulsory military service, alternative service or reserve service.<sup>37</sup>

Enforcement proceedings are terminated:<sup>38</sup>

- 1) on the basis of an application of a claimant;
- 2) upon presentation of a written document where it reveals that the claim has been satisfied;
- 3) where money required for the satisfaction of a claim has been paid;
- 4) upon submission of a court decision by which an enforceable title accepted for enforcement or an obligation to immediately enforce it is revoked or compulsory enforcement is deemed inadmissible or termination of the compulsory enforcement

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<sup>34</sup> Subsection 384 of the Code of Civil Procedure, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>35</sup> Section 45 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>36</sup> Decision 3-2-1-79-12 of the Supreme Court, available on:

<https://www.riigiteataja.ee/kohtulahendid/fail.html?fid=206101194>

<sup>37</sup> Section 46 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>38</sup> Section 48 of the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



is ordered;

5) upon submission of a written document where it reveals that a security necessary to prevent enforcement is provided;

6) in the case of the death or termination of a claimant or debtor where the claim or obligation cannot be transferred to the successors or legal successors of the deceased or terminated;

7) upon unjustified initiation of enforcement proceedings due to failure to comply with the conditions of enforcement proceedings;

8) upon submission of a document where it reveals that the effect of a court decision or an official document of a foreign county which constitutes an enforceable title, has been abolished in the country of origin.

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

In Estonia, the debtor, third party or another party to enforcement proceedings can file a claim against a claimant in the case of unjustified enrichment of the latter in the course of the enforcement proceedings.

Where an enforceable title serving as a basis for compulsory enforcement is revoked and the debtor has made payments to cover enforcement costs, the debtor has the right to request that the claimant repay the enforcement costs paid. In such a case, the enforceable title is the revoking court decision or a decision of an out-of-court proceedings authority and a decision of the enforcement officer concerning the costs. Where it appears in the course of enforcement proceedings that the enforcement officer has seized income for which no claim for payment may be made and has transferred the amount received to the claimant, the debtor can file a claim against the claimant on the basis of provisions of unjustified enrichment. The claim must be filed against the claimant with the court and the foregoing cannot be enforced within the framework of pending enforcement proceedings.<sup>39</sup>

Where it appears after an auction that seizure of the debtor's property is void or the essential conditions of the auction have been violated and the court has declared the auction invalid, the winner of the auction (the acquirer of the thing) may file a claim arising from unjustified enrichment against the claimant. A claim can be filed against the claimant if the enforcement officer has already transferred the amount of money received from the sale of the property to the claimant.

Where a third party is unable to get back a thing that belongs to them for the reason that the claim is filed too late and the release of the thing from seizure is unsuccessful, the third party will have the right to file a claim either against the claimant or the debtor on the basis of the provision of unjustified enrichment. The petition must be filed directly to the court.

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

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<sup>39</sup> Decision 3-2-1-3-08 of the Supreme Court, available on:  
<https://www.riigikohus.ee/et/lahendid?asiaNr=3-2-1-3-08>





Movables that may not be seized or sold within the framework of enforcement proceedings are as follows:

- 1) personal effects of the debtor and household effects, kitchenware, clothing, bedclothes, beds and other things used for domestic purposes which are essential to satisfy household needs, taking account of the amount of the debt of the debtor;
- 2) at least one technical device which ensures the debtor the use of the right to receive information;
- 3) foodstuffs necessary for the debtor and their family for one month and heating material necessary for one heating period to heat the residential premises or, where there is no such supply by the time of enforcement and acquisition of the supply is not ensured in any other manner, a sum of money necessary for acquisition of the supply;
- 4) farming equipment, cattle, fertilizers and primary agricultural products of a person engaged in agriculture, which are essential for the debtor to maintain themselves and their family until the next harvest;
- 5) objects essential to continue the economic or professional activities or the employment or service relationship of a natural person;
- 6) books or other objects used by the debtor or their family member in studies or worship activities;
- 7) accounting documents, family records, marriage rings, orders and decorations belonging to the debtor;
- 8) artificial limbs, spectacles and other medical devices necessary due to a physical disability, which are used by the debtor or their family member;
- 9) objects necessary for a funeral in the family of the debtor;
- 11) the museum collections of state museums, municipal museums and museums of public legal persons and museum objects belonging to the collections, and the museum collections or museum objects of state museums granted for use to a foundation;
- 12) records;
- 13) other things the seizure of which is in conflict with law or good morals<sup>40</sup>.

In addition, it is not permitted to seize animals kept at home for non-commercial purposes. However, on the basis of an application of a claimant, a court may allow the seizure of an animal with high value where prohibition on seizure significantly violates the interests of the claimant in the case of which the interests of animal protection or the legitimate interests of the debtor cannot be taken into account<sup>41</sup>. No restrictions have been prescribed in respect of seizure of immovables, but the enforcement officer

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<sup>40</sup> Section 66 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>41</sup> Section 67 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



must take into account that seizure may not come into conflict with the prohibition on overseizure. The enforcement officer can conduct enforcement proceedings only in Estonia and cannot seize assets or property located in a foreign country.

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

In the course of enforcement proceedings, the enforcement officer can impose a penalty payment on the debtor or a third party who refuses, without legal basis, to provide the enforcement officer with information. It is also possible to impose a penalty payment on a third party obligated with respect to the debtor where the third party refuses, without legal basis, to abide by the instrument of seizure or does not abide by it as required. In addition, the Code of Enforcement Procedure also prescribes the right to impose a penalty payment where an act submitted for enforcement can be performed only by the debtor, but the debtor fails to do so by the designated due date or where the debtor violates the obligation to tolerate a certain act or refrain from a certain act. The enforcement officer may impose penalty payments on natural persons and on legal persons in private or public law. No penalty payments can be imposed on state and municipal agencies.<sup>42</sup>

Penalty payments may be imposed repeatedly on a person until the obligation is performed or a complaint is filed with the enforcement officer against the decision made concerning the imposition of a penalty payment. Upon initial imposition of a penalty payment, the amount thereof is not less than 192.00 euros or not more than 767.00 euros, and, upon repeated imposition of penalty payments, the amount thereof is not more than 1,917.00 euros. Penalty payments are collected into the state budget.<sup>43</sup> A decision made by the enforcement officer on imposition of a penalty payment serves as an enforceable title and where the penalty payment imposed by the enforcement officer is not paid, enforcement proceedings may be initiated on the basis of the decision on imposition of a penalty payment.

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

The enforcement officer can make queries on the property of the debtor mostly electronically through corresponding registers and free of charge. Information related to the debtor can also be asked, in addition to registers, by e-mail, letter and official application. Information provided over the phone is only specifying information. A creditor can obtain information on the property of the debtor only from public registers and the receipt of an extract is in most cases for a charge.

The enforcement officer can access information about the debtor's:

- personal data (personal identification code; date and place of birth; nationality; marital status, data about relationships - parents, children, spouse);

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<sup>42</sup> Section 183 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>43</sup> Section 26<sup>1</sup> of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



- contact details (address; phone; e-mail);
- income and amount thereof (place of work and employer; amount of income and state taxes paid; other benefits payable by the state);
- registered movable property (vehicles, ships; companies; securities, construction works) and immovable property.

In addition, the enforcement officer can obtain information about the bank accounts held by the debtor, including claim the issue of a statement of the account held by the debtor.<sup>44</sup> The enforcement officer can make queries on the existence of bank accounts to credit institutions that have joined the electronic seizure system and send these electronically via a respective programme. Queries can be sent to credit institutions that have not joined the electronic seizure system in a digitally signed form by e-mail.

In the case of legal persons, the enforcement officer can make a query to the Commercial Register which displays data about the legal representative of the company, its shareholders and share pledges, information about contact details as well as economic activity reports and annual reports. In addition, the Commercial Register also displays information about notations concerning prohibition on contributions to companies.

To request information, the enforcement officer has the right to access a state or local authority database and request information from a third party where there is a basis to presume that the third party has information about the residence or seat and contact details of the debtor. In addition, credit institutions, the debtor's employer and offices of the Social Insurance Board are also required to provide information.<sup>45</sup> Information related to the debtor can also be used in later proceedings, but, as a rule, additional queries are made to registers and credit institutions when new proceedings are initiated. The enforcement officer may not disclose information obtained in the course of their official activities. The data may be disclosed only to parties to the proceedings or to other entitled persons (e.g., to courts, out-of-court proceedings authorities, investigative bodies, the Ministry of Justice, the Estonian Chamber of Enforcement Officers and Trustees in Bankruptcy). The debtor is required, at the request of the enforcement officer, to submit a list of their assets<sup>46</sup>, including liabilities. The submission of a list of assets is important particularly where the data available for the enforcement officer do not reveal the actual financial status of the debtor or where the claimant suspects that the debtor may own other valuable movable property or cash.

At the request of the enforcement officer or a claimant, a court may require the debtor to swear in court that the information submitted to the enforcement officer

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<sup>44</sup> Subsection 26 (2) the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>45</sup> Section 26 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>46</sup> Section 60 of the Code of Enforcement Procedure, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



concerning the debtor's assets is correct. Where the debtor, without good reason, fails to submit a list of assets to the enforcement officer or fails to perform the obligation to take an oath, the court may, on the basis of the enforcement officer's request, impose compelled attendance and, where necessary, detention in respect of the debtor.<sup>47</sup> The penalty prescribed for concealment of property or provision of incorrect information on other circumstances important for the creditor is a criminal sanction and the debtor may be sanctioned by a pecuniary penalty or imprisonment of up to three years<sup>48</sup>. The claimant has the right to request a list of assets until the end of enforcement proceedings.

## PART II: ORGANIZATION OF ENFORCEMENT

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

The enforcement officer holds a public office as a liberal profession in their own name and is personally accountable for it. In addition, the enforcement officer must be impartial in their official activities and inspire confidence in all persons for the benefit of or with regard to whom they perform acts. The enforcement officer cannot conduct enforcement proceedings and must withdraw from the proceedings where they have doubts about their impartiality (e.g., a party to the proceedings is their relative, family member, etc.).<sup>49</sup> The enforcement officer is required to maintain office-related confidentiality and the same duty must also be performed by their office staff.<sup>50</sup>

The areas served by enforcement officers are established by a ministerial regulation. The enforcement officer may initiate enforcement proceedings against a debtor whose place of residence or seat or assets are located in the area served by the enforcement officer. Where the debtor's assets are located outside their place of residence or seat, the enforcement officer may seize the debtor's assets also outside the area served by the enforcement officer but assets located in the territory of a foreign country cannot be seized.<sup>51</sup> There are 7–12 enforcement officers in one area and, thus, each area has more or less an equal number of enforcement officers.

The enforcement officer operates via their office. With the permission of the Minister of Justice, enforcement officers serving the same area may run a joint office but even in that case each enforcement officer performs official acts and provides official services in their own name and is personally accountable for their official activities.<sup>52</sup> The enforcement officer is not allowed to hold other paid offices or engage in other

<sup>47</sup> Section 61 the Code of Enforcement Procedure, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>48</sup> Section 385 of the Penal Code, available on: <https://www.riigiteataja.ee/akt/103012020016>

<sup>49</sup> Code of Enforcement Procedure, § 9, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>50</sup> Enforcement Officers Act, § 11, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>51</sup> Code of Enforcement Procedure, § 14, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>52</sup> Enforcement Officers Act, § 4, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>



paid work, except teaching, research and creative work and act as a bankruptcy trustee or liquidator. In addition, the enforcement officer is not allowed to engage in business or be the compulsory administrator of an immovable.

The enforcement officer is required to personally perform acts of suspension and termination of enforcement proceedings, submit a registration application to the land registry department and ownership transfer applications to other property and asset registers regarding property and assets sold in enforcement proceedings by way of an auction, distribute the proceeds from the sale of the property and assets and sign the estate inventory list.<sup>53</sup> Parties to proceedings have the right to request explanations pertaining to an official act directly from the enforcement officer.<sup>54</sup> The enforcement officer sends and receives documents and e-mail messages related to their official acts via their official e-mail address.<sup>55</sup>

The enforcement officer is required to have an official bank account to which the proceeds from funds collected in the framework of enforcement proceedings are transferred. The money transferred to the official bank account cannot be used for covering the office expenses or for any other purposes but settling the claim of the claimant.<sup>56</sup> The funds received in the framework of enforcement proceedings must be transferred by the enforcement officer to the claimant within ten working days following the accrual of the money.<sup>57</sup> The enforcement officer fee and compensation for enforcement costs which have accrued to the official bank account are transferred from the enforcement officer's official account to their business account. In terms of account, the enforcement officer is considered a self-employed person and enforcement officers running a joint office may have joint accounting.<sup>58</sup> The enforcement officer is required to take up an official insurance contract to indemnify for damage caused in official activities.<sup>59</sup> To retain documents, the enforcement officer can use the archive rooms of their office or hand over the documents to a joint archival repository or to an undertaking that provides archiving services.<sup>60</sup>

The Chamber of Enforcement Officers and Bankruptcy Trustees has established general principles of the enforcement officer's office in the document titled 'Good

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<sup>53</sup> Enforcement Officers Act, § 7, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>54</sup> Enforcement Officers Act, § 5, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>55</sup> Enforcement Officers Regulation, § 9, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>56</sup> Enforcement Officers Regulation, Chapter 6, available on:

<https://www.riigiteataja.ee/akt/117012012009?leiaKehtiv>

<sup>57</sup> Code of Enforcement Procedure, subsection 1 of § 43, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>58</sup> Enforcement Officers Act, subsection 5 of § 4, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>59</sup> Enforcement Officers Act, § 10, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>60</sup> Enforcement Officers Regulation, § 27, available on:

<https://www.riigiteataja.ee/akt/117012012009?leiaKehtiv>



Enforcement Practice.’ The Good Enforcement Practice contains value-based norms and principles that determine the enforcement officer’s moral conduct and duties towards society and the surroundings. It also sets out the enforcement officer’s duties upon communicating with the public and the media, the Chamber of Enforcement Officers and Bankruptcy Trustees and colleagues.<sup>61</sup>

The Minister of Justice and the Court of Honour have the right to impose a disciplinary penalty on an enforcement officer<sup>62</sup>. The Court of Honour decides mainly complaints related to the non-performance or improper performance of duties arising from the resolutions of the Chamber of Enforcement Officers and Bankruptcy Trustees and the Good Enforcement Practice, complaints submitted against the activities of an enforcement officer or disciplinary cases, which have been referred by the Ministry of Justice.<sup>63</sup>

The disciplinary offences of an enforcement officer are:

- 1) wrongful non-performance or improper performance of the duties arising from legislation, resolutions of the Chamber and the Good Enforcement Practice in their official activities and holding of their office, including the charging of a fee that does not correspond to the rates of the enforcement officer fees;
- 2) indecent act that is in conflict with the generally recognised moral standards or reduces confidence in the enforcement officer office, regardless of whether the act was committed while performing official duties.

Disciplinary sanctions that may be imposed on an enforcement officer are:

- 1) reprimand;
- 2) fine;
- 3) removal from office.

The enforcement officer may file a complaint against the imposition of a disciplinary sanction with the administrative court within one month after learning of the imposition of the sanction.<sup>64</sup> The criminal liability of the enforcement officer usually involves office-related offences and the Penal Code provides for a sanction in the event of the illegal seizure and sale of assets.<sup>65</sup>

## II.2 Supervision over enforcement

Supervision over the activities of the enforcement officer is exercised by the Ministry of Justice. The Court of Honour of the Chamber of Enforcement Officers and Bankruptcy Trustees exercises supervision over the compliance with the Chamber’s

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<sup>61</sup> Good Enforcement Practice, available on: [http://www.kpkoda.ee/doc/Hea%20ametitava\\_1.pdf](http://www.kpkoda.ee/doc/Hea%20ametitava_1.pdf)

<sup>62</sup> Enforcement Officers Act, subsection 3 of § 57, available on: <https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>63</sup> Enforcement Officers Act, § 100, available on: <https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>64</sup> Enforcement Officers Act, §§ 56–66, available on: <https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>65</sup> Penal Code, § 331<sup>3</sup>, available on: <https://www.riigiteataja.ee/akt/128022020005?leiaKehtiv>





articles of association, decisions of the bodies and the Good Enforcement Practice. The person exercising supervision is authorised to check the compliance of the official activities of the enforcement officer with requirements.

Upon exercising supervision, the following is verified:<sup>66</sup>

- 1) the turnover on the official bank account of the enforcement officer, the advance payment of the enforcement officer's fee and enforcement costs (including the lawfulness of charging the fee);
- 2) registration of official acts and organisation of work in terms of IT;
- 3) adherence to other requirements, duties and deadlines arising from legislation of the Good Enforcement Practice.

Supervision over the official activities of the enforcement officer is exercised:

- 1) by way of a regular inspection;
- 2) by way of special inspection and follow-up inspection;
- 3) on the basis of a person's application, complaint or another document or information.

The enforcement officer is notified of a regular inspection at least two weeks in advance; no advance notice needs to be given of a special inspection or a follow-up inspection. If circumstances that allow for suspecting that the enforcement officer has not performed their official duties or performed these improperly are detected in the course of supervision and these constitute defects, there may be a ground for initiating disciplinary proceedings.<sup>67</sup>

### II.3 Access to the premises

With the debtor's consent the enforcement officer may enter rooms that are in the debtor's possession or access a plot of land that is in the debtor's possession and search these where it is necessary for the enforcement of an enforceable title. In such an event, the enforcement officer has the right to unlock doors to a house, flat or storage room or to have them unlocked. Without the debtor's consent, the enforcement officer may enter rooms or access land in the debtor's possession and search these only on the basis of a warrant issued by the court. The court may issue a warrant even where the debtor has not prohibited the enforcement officer from entering the rooms and accessing the land in their possession and searching these<sup>68</sup>.

The enforcement officer has the right to invite two adults, a representative of the local

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<sup>66</sup> Enforcement Officers Act, §§ 54–55, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>67</sup> Enforcement Officers Regulation, §§ 64–70, available on:

<https://www.riigiteataja.ee/akt/117012012009?leiaKehtiv>

<sup>68</sup> Enforcement Officers Act, § 28, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



authority or a police officer to witness an enforcement act.<sup>69</sup>

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

Where enforcement is obstructed in conducting enforcement proceedings or where there is reason to assume obstruction or where the debtor, their representative, the debtor's adult family member or a person serving the family is not present in a room or on a plot of land that is in the debtor's possession, the enforcement officer invites two adults, a representative of the local authority or a police officer to witness the enforcement act.<sup>70</sup> Police officers are required to provide the enforcement officer with proper assistance and the enforcement officer has the right to have an enforcement-obstructing person removed from the enforcement act.<sup>71</sup>

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

The enforcement officer performs enforcement acts on working days. Enforcement acts are performed on days off, national holidays and between 10:00 p.m. and 6:00 a.m. only in unavoidable circumstances.<sup>72</sup>

#### **II.6 Mediation**

The enforcement procedure does not allow the enforcement officer to conclude agreements between the claimant and the debtor. In enforcement proceedings, the enforcement officer can offer the debtor the option to submit a payment proposal, but it is up to the claimant to decide whether to accept the proposal. To conclude an agreement on the settlement of debts, the debtor should usually directly contact the claimant.

### **PART III: ENFORCEMENT PROCEDURES**

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

Usually, the enforcement officer initiates enforcement proceedings on the basis of an application of the claimant and an enforceable title. Enforcement proceedings can be conducted without an application of the claimant where the enforceable title is a decision on the enforcement officer's fee or a decision to award the enforcement costs.<sup>73</sup>

The initiation of enforcement proceedings is somewhat different where the enforcement officer is asked to collect a fine imposed as a sanction for a misdemeanour or enforce a pecuniary sanction or property sanction imposed in a

<sup>69</sup> Code of Enforcement Procedure, § 29, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>70</sup> Code of Enforcement Procedure, § 29, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>71</sup> Code of Enforcement Procedure, § 27, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>72</sup> Code of Enforcement Procedure, § 30, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>73</sup> Code of Enforcement Procedure, subsection 1 of § 23, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





criminal case. In these situations, the enforcement proceedings are conducted on the basis of a court judgment or a decision of an out-of-court proceedings authority sent to the enforcement officer for enforcement.<sup>74</sup> To initiate enforcement proceedings, the claimant needs to address an enforcement officer serving the area where the place of residence, seat or property of the debtor is located.

Public authorities' claims are distributed between enforcement officers by the Chamber of Enforcement Officers and Bankruptcy Trustees, taking into account the areas served by the enforcement officers and the claims are divided proportionally, i.e., 50% of the claims of the public authorities are distributed equally between all the enforcement officers of the area and 50% of the claims are distributed based on the ranking of the enforcement officers. An enforcement officer cannot refuse to accept the claims of a public authority for enforcement.<sup>75</sup>

Upon submission of an enforcement application, the claimant can indicate, where possible, the assets and property of the debtor known to them along with the location thereof, but the enforcement officer identifies the existence and location of the assets and property in the course of the enforcement proceedings and the claimant is not required to separately clarify the manner and subject matter of enforcement; instead, the claimant can apply for the conduct of enforcement proceedings with regard to the entire assets and property of the debtor, except for claims secured by a mortgage. If the claimant has information on the assets or property belonging to the debtor, which registers do not indicate, the enforcement officer should be specifically informed thereof in the enforcement proceedings.

The enforcement officer has the right to demand information of the debtor's assets and property from the debtor as well as third parties<sup>76</sup>. Upon submission of an enforcement application, the claimant can indicate whether they wish to enforce their claim against movables, immovables or the debtor's rights of claim.

The enforcement officer determines the order of seizure of assets and property, thereby first hearing the proposal of the claimant. Upon determining the order, it is taken into account that the claim of the claimant must be settled in the fastest possible way and without harming the debtor's interests. It is also not allowed to seize more of the assets and property of the debtor than necessary for settling the claim of the claimant and covering the enforcement costs. The given assumption does not apply where the settlement of the claim of the claimant is not otherwise possible.<sup>77</sup>

In misdemeanour and criminal cases, § 198 of the Code of Enforcement Procedure establishes the order of enforcement and, first, the claim is enforced against money,

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<sup>74</sup> Code of Enforcement Procedure, subsection 1 of § 199 and subsection 1 of § 204, available on: <https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>75</sup> Regulation No 42 of the Government of the Republic, 1 April 2010, available on: <https://www.riigiteataja.ee/akt/129122011033?leiaKehtiv>

<sup>76</sup> Code of Enforcement Procedure, § 26, available on: <https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>77</sup> Code of Enforcement Procedure, § 53, available on: <https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



valuables, securities and claims, followed by the remaining movables and, finally, immovables.

The grounds for termination of enforcement proceedings are provided for in § 48 of the Code of Enforcement Procedure under which the enforcement officer terminates the enforcement proceedings:

- on the basis of an application of the claimant; upon submission of a written document if it is evident from the document that the claim of the claimant has been settled;
- once the sum of money required for the settlement of the claim has been paid to the enforcement officer's official bank account or upon performance of the act specified in the enforceable title;
- upon submission of a court decision by which an enforceable title accepted for enforcement or the duty to immediately enforce it has been set aside or by which compulsory enforcement has been declared impermissible or the termination of the compulsory enforcement has been ordered;
- upon submission of a written document that certifies the provision of a security required for prevention of enforcement;
- in the event of death or dissolution of the claimant or the debtor if the claim or obligation cannot transfer to the heirs of the deceased or the legal successors of the dissolved;
- upon groundless commencement of the enforcement proceedings due to failure to adhere to the terms and conditions of the enforcement proceedings;
- upon submission of a document indicating that the effect of a foreign court decision or official document constituting an enforceable title has been annulled in the country of origin;
- if, upon enforcement of a European Account Preservation Order made pursuant to the Regulation of the European Parliament and of the Council, there are no financial resources in the bank account at the moment of seizure or the financial resources are fully seized, except where the financial resources in the bank account are fully seized at the moment of seizure and the European Account Preservation Order secures a claim for maintenance for a child;
- on another basis provided by law.

If the debtor is declared bankrupt, the enforcement proceedings must be terminated as well. Enforcement proceedings aimed at collecting a fine, pecuniary sanction or property sanction are terminated on the basis of an order imposing a converted sentence or due to expiry. Enforcement proceedings initiated for the purpose of collecting a fine, pecuniary sanction or property sanction are also subject to termination in the event of the death of a natural person or dissemination of a legal person and no enforcement claim is made against the assets or property of the heir of



the natural person or the legal successor of the legal person.<sup>78</sup>

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

The enforcement officer has the right to conduct enforcement proceedings for the seizure of immovables and movables on the basis of an enforceable title. The claimant does not need to separately inform the enforcement officer about the existence of registered movables but if the claimant knows that the debtor owns movables at the expense of which it would be possible to settle the enforceable claim, the enforcement officer should be informed thereof. To pursue an enforcement claim against movables, an enforcement notice needs to have been served to the debtor. If a delay arising from the serving of an enforcement notice may considerably jeopardise the attainment of the purpose of the compulsory enforcement, the enforcement officer may seize the debtor's assets or to have the register enter a prohibiting notice before sending the enforcement notice<sup>79</sup>.

The assets and property are recorded in the presence of the debtor, their representative or adult family member. If the debtor, their representative or adult family member is not present at the seizure of assets or property, the enforcement officer invites two witnesses or a police officer to attend the seizure. The claimant or their representative may attend the recording of assets and property<sup>80</sup>.

If a third party argues in the seizure that the seized item of property belongs to them, a notation on the objection is entered in the seizure report. The third party has the right to file a claim with the court and demand that the property be released. A pledgee or another person having a similar preferential right with respect to an item of property cannot object to seizure.<sup>81</sup> The enforcement officer released an item of property on the basis of an application of a third party when it is obvious that the enforcement officer has seized an item of property belonging to a third party.<sup>82</sup>

The law does not provide for a time limit of filing a claim with the court but if an agreement or a court decision releasing the seized property or suspending or terminating the enforcement proceedings has not been submitted to the enforcement officer by the time of an auction and the assets are or the property is sold at an auction, the third party loses the right to the assets or property and is entitled solely to the proceeds from the auction.<sup>83</sup> If the enforcement officer has reason to believe that a third party has been granted use of the debtor's assets or property for the

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<sup>78</sup> Code of Enforcement Procedure, §§ 201–207, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>79</sup> Code of Enforcement Procedure, subsection 2 of § 64, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>80</sup> Code of Enforcement Procedure, § 70, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>81</sup> Code of Enforcement Procedure, § 73, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>82</sup> Code of Enforcement Procedure, subsection 2 of § 77, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>83</sup> Code of Enforcement Procedure, subsection 5 of § 222, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



purpose of preventing seizure, the enforcement officer has the right to seize the property in the possession of the third party<sup>84</sup>.

The enforcement officer may leave the seized item of property in the possession of the debtor, provided that it does not jeopardise the settlement of the claimant's claim. Cash, valuables or securities in the form of a document are not left in the debtor's possession. If the enforcement officer does not take possession of a seized item of property and does not leave it in the debtor's possession, the item of property may be placed in the custody of a third party. The custodian of the property is determined by agreement between the debtor and the claimant and, failing agreement, the enforcement officer determines the custodian of the property.<sup>85</sup>

As of the seizure, the claimant develops a right of security towards the seized item of property and such right of security gives the party the same rights as a right of security established on the basis of a contract or a statute, unless otherwise provided by law. A right of security that emerged towards assets or property seized earlier ranks above a right of security that emerges on the basis of a subsequent seizure. A right of security arising from a contract or statute ranks above a right of security of the claimant. A right of security based on a child's maintenance support claims ranks above all other rights of security towards seized assets and property, regardless of the time of seizure. Rights of seizure based on a child's maintenance support claim have the same ranking.<sup>86</sup>

A claim may be enforced against the communal assets and property of the spouses with the consent of the non-debtor spouse or where there is an enforceable title that obligates both spouses to perform an obligation. Where a claim is enforced against the communal assets and property of the spouses in enforcement proceedings conducted with regard to the assets and property of one spouse, the consent of the non-debtor spouse in favour of the claimant is assumed. Such assets and property may be seized and sold. The assumption of consent does not apply to immovables or to the income of the non-debtor spouse and the funds on an account opened in the name of the non-debtor spouse.<sup>87</sup>

Seized things are valued by agreement of the debtor and the claimant. If the debtor and the claimant fail to reach an agreement on the valuation of the items of property and if at least one of them is not present at the seizure, the property is valued by the enforcement officer. Upon valuation of an item of property, the enforcement officer relies on its usual value, taking into account, among other things, third party rights encumbering the item of property and their possible termination. If the valuation of an item of property proves to be complicated, the enforcement officer

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<sup>84</sup> Code of Enforcement Procedure, subsection 4 of § 64, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>85</sup> Code of Enforcement Procedure, §§ 71–72, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>86</sup> Code of Enforcement Procedure, § 65, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>87</sup> Code of Enforcement Procedure, § 14, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



will have an expert determine the value of the property. The debtor and the claimant may contest the price set by the enforcement office by submitting a complaint to the enforcement officer and in the event of contestation of the price, the enforcement officer applies to the court for the appointment of an expert for carrying out a new valuation.<sup>88</sup> Upon seizure of an item of property for the second time, the enforcement officer adds the details of the second claimant and a notation indicating that the item of property has been seized before.<sup>89</sup>

The enforcement officer sells seized movables by way of a public electronic auction. If an electronic auction is no longer possible due to reasons not dependent on the enforcement officer, the auction may take place orally and if the price of the seized movables is up to 2,000 euro according to the seizure report, the enforcement officer may delegate their sale to the Chamber of Enforcement Officers and Bankruptcy Trustees.<sup>90</sup> A repeat auction may be held by the enforcement officer electronically or orally.<sup>91</sup> The enforcement officer may determine the place of an oral auction<sup>92</sup>, but usually an auction is held in the office of the enforcement officer and an oral auction is conducted by the enforcement officer.

The time of the auction is determined by the enforcement officer but the auction cannot take place before 10 days have passed from seizing the item of property, unless the claimant and the debtor agree on an earlier time. The enforcement officer can hold an auction before 10 days have passed from the seizure where the value of the item of property would decrease considerably if the time limit was observed or where the custody of the item of property would bring about unreasonably high custodial costs<sup>93</sup>. Where the price of a seized movable does not, according to the seizure report, exceed 100 euro and the holding of an auction is impractical, the enforcement officer sells the item in another manner. The enforcement officer may arrange the sale of the item of property via a person who is engaged in selling items of property in their ordinary economic activities.<sup>94</sup>

On the basis of the debtor's application and with the consent of the claimant, the enforcement officer may allow the debtor to sell a seized item of property under the supervision of the enforcement officer. The enforcement officer may also allow the debtor to sell an item of property without the consent of the claimant where an

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<sup>88</sup> Code of Enforcement Procedure, § 74, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>89</sup> Code of Enforcement Procedure, subsection 1 of § 76, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>90</sup> Code of Enforcement Procedure, § 78, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>91</sup> Code of Enforcement Procedure, subsection 1<sup>1</sup> of § 100, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>92</sup> Code of Enforcement Procedure, subsection 2 of § 81, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>93</sup> Code of Enforcement Procedure, § 80, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>94</sup> Code of Enforcement Procedure, § 101<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





auction has failed or there is reason to assume that the item of property cannot be sold at an auction or that the net gain in the case of an auction of the item of property is considerably smaller as compared to the proceeds from the sale arranged by the debtor. The enforcement officer does not allow the debtor to sell assets or property at a price lower than the price indicated in the assets and property seizure report.<sup>95</sup>

The enforcement officer or a person who attended the seizure of the property as a witness or a person who holds the auction or attends the auction as a witness as well as a person acting at the account of such a person cannot take part in an auction.<sup>96</sup>

An announcement of the auction must be published in the official publication *Ametlikud Teadaanded* and on the public computer network. The enforcement officer may publish an announcement also in a newspaper circulated at the place of the auction. At the request of the claimant or the debtor, the enforcement officer publishes an advertisement in other publications at the expense of the claimant or the debtor.<sup>97</sup> Information on the sale of a movable of a low value is published on the website of the Chamber of Enforcement Officers and Bankruptcy Trustees at least three working days before handing the thing over for sale. The announcement should contain, among other things, the enforcement officer's name, a general description of the items of property and the place of sale.<sup>98</sup> Where the enforcement officer has set a security deposit for participating in an auction, the person wishing to take part in the auction must pay it. No security deposit needs to be paid by the state, the local authority, Eesti Pank, the claimant and the pledgee whose claim covers the required security deposit. The security deposit paid by the buyer is included in the purchase price, while the security deposits paid by other participants are refunded on the working day following the day of the auction.<sup>99</sup>

The holding of an auction does not depend on the number of participants and an auction is held also where there is only one participant. The opening price at an auction is the price of the assets or property indicated in the seizure report. In the case of failure of an auction, the claimant may demand that a repeat auction be held. At a repeat auction, the items of property may be written down but by no more than 25 per cent in comparison with the opening price at the preceding auction. The opinion of the debtor and the claimant needs to be asked regarding the write-down. Items of property cannot be written down by more than 70 per cent of the opening price of the preceding auction.<sup>100</sup>

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<sup>95</sup> Code of Enforcement Procedure, § 102, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>96</sup> Code of Enforcement Procedure, subsection 2 of § 87, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>97</sup> Code of Enforcement Procedure, subsection 2 of § 84, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>98</sup> Code of Enforcement Procedure, subsection 3 of § 101<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>99</sup> Code of Enforcement Procedure, § 83, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>100</sup> Code of Enforcement Procedure, subsection 5 of § 100, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



Upon selling a movable of a low value in another manner, the item of property may be written down by up to 10 per cent from the price indicated in the seizure report upon the passing of each period of five working days. If an item of property cannot be sold, it is returned to the debtor. Items of property that cannot be returned to the debtor may be destroyed or handed over for charity purposes.<sup>101</sup>

A repeat auction is not held sooner than 10 days after the first auction was declared failed, unless the item of property may get destroyed or perish or its value may decrease considerably.<sup>102</sup> If the enforcement officer cannot sell an item of property within a reasonable time, the enforcement officer releases the item of property from seizure.<sup>103</sup>

The winner of an oral auction must pay the purchase price immediate after the end of the auction. If the purchase price exceeds 12,700 euro, the winner of an oral auction must pay a tenth of the purchase price immediately after the end of the auction and the remainder of the price within 15 days. If the debtor is the buyer, they must pay the total purchase price at once. The winner of an electronic auction must pay the purchase price on the working day following the end of the auction. If the purchase price exceeds 12,700 euro, a tenth of the purchase price must be paid on the working day following the auction and the remainder of the price must be paid within 15 days. If the debtor is the buyer, the entire purchase price must be paid on the working day following the auction. If the buyer wishes to buy an item of property sold at a compulsory auction using a loan granted by a credit institution, the buyer should inform the enforcement officer thereof immediately after their bid has been declared successful. The buyer must pay the entire purchase price or ensure the performance of the obligation to pay the purchase price by a credit institution within 15 days as of the day following the day when the buyer's bid was declared successful. The debtor cannot request the payment of the purchase price using a loan.<sup>104</sup>

When the purchase price is not paid, the auction fails.<sup>105</sup> When the auction is successful, the enforcement officer draws up an auction report based on which the ownership of the sold item of property is transferred to the buyer. If the item of property needs to be registered in the buyer's name, the enforcement officer sends a copy of the auction report to the respective register.<sup>106</sup>

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<sup>101</sup> Code of Enforcement Procedure, subsection 5 of § 101<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>102</sup> Code of Enforcement Procedure, subsection 2 of § 100, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>103</sup> Code of Enforcement Procedure, subsection 4 of § 77, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>103</sup> Code of Enforcement Procedure, subsection 4 of § 77, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>104</sup> Code of Enforcement Procedure, §§ 93 and 93<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>105</sup> Code of Enforcement Procedure, clause 3 of subsection 1 of § 99, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>106</sup> Code of Enforcement Procedure, subsection 3 of § 96 and subsection 1 of § 98, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



The enforcement officer distributes the proceeds from the sale of the items of property between the parties seeking enforcement and other persons entitled to the net gain in the order of emergence of the right of security or on the basis of an agreement between the parties seeking enforcement. Where the net gain is insufficient for settling the claims of all persons and the parties seeking enforcement fail to reach an agreement on the distribution of the money, the enforcement officer draws up a plan for the distribution of the proceeds. The distribution plan is drawn up and the proceeds are distributed as per ranking of the rights of security. The enforcement costs are deducted from the proceeds-to-be-distributed first. The claimant may, within 15 days as of the receipt of the distribution plan, file a claim contesting the distribution plan against the enforcement officer and the enforcement-seeking party concerned. Where the enforcement officer has not, within 20 days as of the serving of the distribution plan on the parties seeking enforcement, been informed of the filing of a claim contesting the distribution plan, the distribution plan is deemed as approved and the enforcement officer pays out the proceeds.<sup>107</sup>

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

The enforcement officer electronically receives information on the existence of an account from credit institutions that have joined the electronic seizure system. A query on the existence of accounts can be sent to other credit institutions by e-mail. Bank accounts in credit institutions that have joined the electronic seizure system are seized via the enforcement officers' information system and a bank account seizure report is sent by e-mail to a credit institution that has not joined the electronic seizure system. Indicating the bank account number in the bank account seizure report is not necessary. A bank account seizure report automatically applies to deposits, current accounts, foreign currency accounts and other accounts in the bank. The bank account seizure report also applies to an account opened by the debtor in the future.

Usually, communication with credit institutions that have joined the electronic seizure system takes place via the electronic information system and with other credit institutions by e-mail. Upon seizure of a bank account, the credit institution notifies the enforcement officer of the existence or absence of the account, but the bank is not obligated to disclose the account numbers.

Immediately after receiving a seizure report, the credit institution is required to seize the debtor's accounts and in a credit institution that has joined the electronic information system the account is seized automatically after receiving an electronic seizure order. The account is seized to the extent of the sum indicated in the seizure report and if the funds on the account do not amount to the sum indicated in the seizure report at the moment of seizure, the account remains seized to the missing extent and the sums accruing to the account are transferred to the enforcement

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<sup>107</sup> Code of Enforcement Procedure, §§ 105–109, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





officer's official bank account until the seizure report has been executed.<sup>108</sup>

The order to transfer money to the enforcement officer's official bank account is contained in the seizure report and no separate order needs to be given to the credit institution by the enforcement officer. The credit institution transfers the seized sums to the enforcement officer's account without delay. In the bank account seizure report, the enforcement indicates the size of the income that is not subject to seizure based on the information known to the enforcement officer<sup>109</sup>.

The enforcement officer has the right to demand that the credit institution submit a statement of the debtor's account, information on deposits and other services rendered to the debtor by the credit institution. An account statement may be requested for a period that starts six months before the commencement of the enforcement proceedings and lasts until the end of the enforcement proceedings. An account statement may be requested solely for the period of the six consecutive months immediately preceding the making of the query. The debtor's account statement is issued to the enforcement officer free of charge.<sup>110</sup>

Where multiple enforcement officers have sent a seizure report to a credit institution in favour of multiple parties seeking enforcement, the credit institution pays the money to the enforcement officers in the order of arrival of the seizure reports. Regardless of the moment of arrival, a seizure report prepared on the basis of a child's maintenance support claim is deemed as having arrived first.<sup>111</sup> Upon settlement of a claim or termination of the enforcement proceedings, the enforcement officer is required to immediately submit to the credit institution orders setting aside the bank account seizure reports.<sup>112</sup> Where a credit institution does not execute an order sent by the enforcement officer, the enforcement officer can impose a penalty payment, but in practice credit institutions do comply with reports sent by enforcement officers.

Where the funds on the enforcement officer's account are in another currency, the money is transferred to the enforcement officer's official bank account in the local currency.

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

Deposits and current accounts are seized on the same conditions as indicated in clause III.3. The enforcement officer cannot seize a credit card account opened in the name of the debtor.

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

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<sup>108</sup> Code of Enforcement Procedure, § 115, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>109</sup> Code of Enforcement Procedure, subsection 1 of § 133, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>110</sup> Code of Enforcement Procedure, subsection 3 of § 26, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>111</sup> Code of Enforcement Procedure, subsection 1 of § 119, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>112</sup> Code of Enforcement Procedure, subsection 6 of § 115, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



Upon seizure of an immovable, usually the rules of making an enforcement claim against movables are applied, unless special rules governing the enforcement of claims against immovables provide otherwise.

All immovables are registered in the land register and, usually, an enforcement claim can be pursued against an immovable where the debtor is registered in the land register as the owner. If the legal successor has not changed the ownership entry in the land register, for instance, following succession proceedings, the enforcement officer can seize the immovable on the basis of a document certifying the legal succession.

It follows from the Code of Enforcement Procedure that the claimant must, upon pursuing an enforcement claim against an immovable, submit to the enforcement officer a reference to the land register<sup>113</sup>, but since the enforcement officer has access to the electronic land register, the immovables belonging to the debtor are visible upon making a respective query.

Upon seizure of an immovable, the enforcement officer has a notation concerning prohibition on disposal made in the land register.<sup>114</sup> Where the enforcement officer has made a notation concerning prohibition on disposal on an immovable, no entries can be made in the register without an application or consent of the enforcement officer.<sup>115</sup> Where the enforcement officer has seized an immovable and made a disposal-prohibiting notation thereon, the immovable is not re-seized in the framework of other claims and no second prohibiting notation is made to the land register. In the framework of other enforcement proceedings, it is possible to submit to the enforcement officer that made the prohibiting notation an application to join the compulsory enforcement and the enforcement officer that seized the immovable makes a decision to allow the applicant to participate in the proceedings. The enforcement-seeking party that joined the proceedings has the same rights as the enforcement-seeking party on the basis of whose application the immovable was seized.<sup>116</sup> The enforcement officer that drew up the seizure report registers the joined enforcement-seeking parties.

Where the enforcement officer performs a claim secured by a mortgage, the entry of multiple prohibiting notations in the land register cannot be precluded and in such an event the prohibiting notation established in favour of the mortgagee ranks higher.

Upon sale of an immovable by way of an auction, the rights set out in the land register, which are ranked above and at the same level as the claim of the claimant or a right securing it, remain in force. Where an immovable is sold to settle multiple claims of

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<sup>113</sup> Code of Enforcement Procedure, subsection 2 of § 140, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>114</sup> Code of Enforcement Procedure, subsection 1 of § 142, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>115</sup> Code of Enforcement Procedure, subsection 3 of § 54, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>116</sup> Code of Enforcement Procedure, § 149, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



different rankings, the highest-ranking claim is relied on as regards the retention of the rights. Rights of a lower-ranking in the hierarchy of claims terminate as of the declaration of a bid successful. A right held by the claimant, which has been entered in the land register and for the settlement of which the enforcement claim was made is deemed ceased. In the case of an auction, the rights stemming from an easement are not terminated where the easement had been established on a statutory basis. A right registered in the land register, which would terminate upon sale of the immovable and would have to be deleted from the land register, remains in force where the entitled person and the buyer agree thereon in a contract authenticated by a notary and submit the agreement to the enforcement officer before the submission of the application for the deletion of the rights from the land register.<sup>117</sup> The buyer may terminate a tenancy or commercial lease contract on the conditions and within the time limit established in the Law of Obligations Act. The Buyer cannot terminate a tenancy or commercial lease contract where a notation on the contract has been made to the land register and it cannot be deleted from the land register due to its ranking.<sup>118</sup>

Those who wish can inspect the immovable on sale as of the publication of the auction announcement until the start of the auction.

The seized immovable is usually left in the debtor's possession and the debtor is allowed to administer and use the immovable within the limits of ordinary management. If there is reason to assume that the debtor jeopardises or will jeopardise ordinary management, the court may appoint a supervisor or compulsory administrator for the immovable on the basis of an application of the claimant.<sup>119</sup>

An immovable is valued by agreement of the debtor and the claimant. If the debtor and the claimant fail to reach an agreement or one of them is not present at the seizure, the property is valued by the enforcement officer. Upon valuation of the property, the enforcement officer relies on its usual value, taking into account third party rights encumbering the property and their possible termination. If the valuation of an item of property proves to be complicated, the enforcement officer will have an expert determine the value of the property.<sup>120</sup> Where the claim of the claimant cannot be settled at the expense of the proceeds from the sale of the immovable, the debtor can request the suspension of the sale of the immovable, but the sale can be suspended only with the consent of the claimant.

The notification of an auction of an immovable is subject to the same terms and conditions as the notification of an auction of a movable, but § 153 of the Code of Enforcement Procedure must be taken into account as well. The time between the

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<sup>117</sup> Code of Enforcement Procedure, §§ 158–159, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>118</sup> Code of Enforcement Procedure, § 161, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>119</sup> Code of Enforcement Procedure, § 162, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>120</sup> Code of Enforcement Procedure, subsections 1–6 of § 74, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



publication of an auction announcement and an auction notice and the auction must be at least 20 days, unless the court decides otherwise. An auction announcement is published in the official publication *Ametlikud Teadaanded* and on the internet in a major real estate sales portal. At the request of the claimant or the debtor, the enforcement officer also publishes an announcement in another publication, but in such an event the claimant or the debtor covers the costs of publication.<sup>121</sup> An auction notice is published in online portals [www.oksjonikeskus.ee](http://www.oksjonikeskus.ee) and [www.varad.ee](http://www.varad.ee). An auction notice and an auction announcement must be sent to all the parties to the proceedings.

An immovable is sold by way of an electronic auction. In the case of an oral auction, the auction is usually held in the enforcement officer's office and conducted by the enforcement officer. An immovable may be sold, similarly to a movable, under the supervision of the enforcement officer. An auction is held in accordance with the provisions regulating auctions of movables and additional restrictions regarding auction participants have not been established. The enforcement officer or a person who attended the seizure of the property as a witness or a person who holds the auction or attends the auction as a witness as well as a person acting at the account of such a person cannot take part in an auction.

The right of pre-emption cannot be exercised in an auction.<sup>122</sup>

In the case of an auction of an immovable, the enforcement officer has the right to demand the payment of a security deposit. No security deposit needs to be paid by the state, the local authority, Eesti Pank, the claimant and the pledgee whose claim covers the required security deposit. The security deposit paid by the buyer is included in the purchase price, while the security deposits paid by other participants are refunded on the working day following the day of the auction.<sup>123</sup> The holding of an auction does not depend on the number of participants and an auction is held also where there is only one participant. The opening price at an auction is the price of the assets or property indicated in the seizure report. In the case of failure of an auction, the claimant may demand that a repeat auction be held. At a repeat auction, the items of property may be written down but by no more than 25 per cent in comparison with the opening price at the preceding auction. The opinion of the debtor's and the claimant needs to be asked regarding the write-down. Items of property cannot be written down by more than 70 per cent of the opening price of the preceding auction.<sup>124</sup>

A repeat auction is not held sooner than 10 days after the first auction was declared failed, unless the item of property may get destroyed or perish or its value may

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<sup>121</sup> Code of Enforcement Procedure, subsection 2 of § 153, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>122</sup> Code of Enforcement Procedure, subsection 5 of § 97, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>123</sup> Code of Enforcement Procedure, § 83, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>124</sup> Code of Enforcement Procedure, subsection 5 of § 100, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



decrease considerably.<sup>125</sup>

The winner of an oral auction must pay the purchase price immediately after the end of the auction. If the purchase price exceeds 12,700 euro, the winner of an oral auction must pay a tenth of the purchase price immediately after the end of the auction and the remainder of the price within 15 days. If the debtor is the buyer, they must pay the total purchase price at once. The winner of an electronic auction must pay the purchase price on the working day following the end of the auction. If the purchase price exceeds 12,700 euro, a tenth of the purchase price must be paid on the working day following the auction and the remainder of the price must be paid within 15 days. If the debtor is the buyer, the entire purchase price must be paid on the working day following the auction. If the buyer wishes to buy an item of property sold at a compulsory auction using a loan granted by a credit institution, the buyer should inform the enforcement officer thereof immediately after their bid has been declared successful.<sup>126</sup> The enforcement officer should be informed of the wish to acquire the immovable using a loan immediately after the bid has been declared successful. When the purchase price is not paid, the auction fails.<sup>127</sup> Ownership of the immovable is obtained as of the making of an entry in the land register on the basis of the auction report.<sup>128</sup> Where the debtor does not willingly hand over the possession of the immovable, enforcement proceedings for giving up possession of the immovable can be initiated on the basis of the auction report.

The enforcement officer distributes the proceeds from the sale and compulsory administration of the immovable based on the rankings registered in the land register and in the seizure order or based on the agreement of the parties seeking enforcement. In the case of a simultaneous seizure, the parties seeking enforcement get the same ranking upon distribution of the proceeds.

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

- 1) enforcement costs; compulsory enforcement costs that cannot be covered at the expense of the proceeds from the immovable;
- 2) claims arising from rights entered in the land register according to the ranking of the right in the land register along with accessory claims;
- 3) the claims of the parties seeking enforcement for the securing of which the immovable has been seized or whereby compulsory enforcement has been joined;
- 4) other claims.<sup>129</sup>

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<sup>125</sup> Code of Enforcement Procedure, subsection 2 of § 100, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>126</sup> Code of Enforcement Procedure, §§ 93 and 93<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>127</sup> Code of Enforcement Procedure, clause 3 of subsection 1 of § 99, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>128</sup> Code of Enforcement Procedure, § 156, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>129</sup> Code of Enforcement Procedure, § 174, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





The distribution plan drawn up by the enforcement officer can be contested in court.

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

The enforcement officer can obtain information on the debtor's employment by making an electronic inquiry with the Tax and Customs Board. The inquiry also indicates the size of the debtor's salary.

Upon submission of a salary seizure report, the employer is required to notify of the termination of the employment relationship with the debtor. If the debtor commences work for the same employer again within six months, the previous seizure report sent by the enforcement officer remains in force<sup>130</sup>. If the employer does not comply with the enforcement officer's order to make withdrawals from the debtor's salary, the enforcement officer may impose a penalty payment on the employer.<sup>131</sup> A third party obligated towards the debtor is liable for damage suffered by the claimant due to the third party's failure to perform their obligation.<sup>132</sup>

The Code of Enforcement Procedure provides for income that the enforcement officer cannot make an enforcement claim against as well as a portion of income that the debtor must be allowed to keep.<sup>133</sup> Income means, above all, the debtor's salary or other similar remuneration, daily allowance, non-compete remuneration, remuneration received from the transfer or granting use of intellectual property, pension, dividends, goods, services, remuneration in kind or a benefit that can be expressed in money, which the person has received in connection with a work or service relationship, being a member of the management or controlling body of a legal person, or a long-term contractual relationship.

Income is not seized if it does not exceed the minimum monthly salary or a respective weekly or daily wage<sup>134</sup>. Where the debtor has dependants or pays maintenance support, the amount not subject to seizure increases by one third of the minimum monthly salary per dependant. If the debtor's income is below the minimum salary and making an enforcement claim against the debtor's other assets or property does not or presumably will not lead to the settlement of the claim, the enforcement officer may seize 20% of the income per month, but before that the estimated monthly minimum means of subsistence<sup>135</sup> published by Statistics Estonia must be debited

<sup>130</sup> Code of Enforcement Procedure, subsection 3 of § 130, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>131</sup> Code of Enforcement Procedure, clause 2 of subsection 1 of § 26<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>132</sup> Code of Enforcement Procedure, subsection 2 of § 117, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>133</sup> Code of Enforcement Procedure, §§ 130–132, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>134</sup> As of 1 January 2020, the minimum hourly rate is 3.48 euros and the minimum monthly salary in the case of a full-time job is 584.00 euros.

<sup>135</sup> The estimated minimum means of subsistence for 2019 is 221.36 euros per month – this indicator is published by Statistics Estonia in the official publication *Ametlikud Teadaanded* at:

[www.ametlikudteadaanded.ee](http://www.ametlikudteadaanded.ee).



from the income and in the case of dependants the sum that cannot be seized per dependant must be taken into account as well.

There are variations in seizing income upon enforcement of a maintenance support claim. In the case of the enforcement of a child's maintenance support claim, the debtor's income that is not subject to seizure does not increase at the expense of the dependants and if the enforcement of the claim against the debtor's other assets and property has not led or presumably will not lead to the payment of the child's maintenance support claim, the enforcement officer may seize half of the minimum monthly salary. If the sum seized out of the debtor's income falls below half of the minimum salary, up to one third of the income may be seized.

No enforcement claim can be made against the following:

- national family allowances;
- social benefits;
- unemployment benefits paid via the Estonian Unemployment Insurance Fund; scholarships;
- travel and accommodation allowances and business commencement support;
- compensation paid due to causing a bodily injury or health disorder (except for compensation for lost income and non-pecuniary damage);
- work ability allowance;
- statutory maintenance support;
- pecuniary health insurance benefit, except for benefits for temporary incapacity for work;
- national pension to the extent provided in a statute;
- support to those released from prison;
- benefits for the repressed, which are paid on the basis of the Persons Repressed by Occupying Powers Act.

An enforcement claim may be made against compensation paid due to causing a bodily injury or a health disorder, work ability allowance and statutory maintenance support, provided that enforcing the claim against the debtor's other assets or property did not or presumably will not result in the complete settlement of the claim of the claimant and the seizure is fair and just.

The debtor can grant the enforcement officer consent to withhold funds on the portion that is not subject to seizure.

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

Where it becomes evident in the course of enforcement proceedings that the debtor has claims against other persons, the enforcement officer can seize those claims. The enforcement official usually informs the claimant of the existence of a claim, but if the

claimant has expressed in the enforcement application the wish to make an enforcement claim against the rights of claim held by the debtor, the enforcement officer can also seize claims whose existence becomes evident from registers or data available to the enforcement officer in the framework of the enforcement proceedings. The debtor can contest the claim seizure report drawn up by the enforcement officer by submitting a complaint to the enforcement officer.

By a seizure report, the enforcement officer orders a third party obligated towards the debtor to perform the obligation to the enforcement officer instead of the debtor and prohibits the debtor to dispose of the claim, above all, to collect the claim.<sup>136</sup> A seizure report obligates a third party obligated towards the debtor to make payments to the enforcement officer's official bank account. A claim is seized if a seizure report has been served on the third party obligated towards the debtor and an incorrect seizure report is valid in a relation between the debtor and a third party obligated towards the debtor until it is set aside and the third party obligated towards the debtor learns thereof.<sup>137</sup>

If several seizure reports are submitted to the obligated party with regard to a debtor, money is paid to the enforcement officer in the order of receipt of the reports. Regardless of the moment of receipt, a report drawn up in the proceedings of a child's maintenance support claim is deemed as having arrived first.<sup>138</sup> If several reports drawn up in a child's maintenance support claim are served on the obligated person, the rights of security arising from the child's maintenance support claim hold the same ranking.<sup>139</sup>

The person obligated towards the debtor must, by the time set by the enforcement officer, inform the enforcement officer of whether they admit the existence of the debtor's claim and are prepared to perform the obligation, whether other persons have filed claims against the claim, what these claims are and whether the debtor's claim has been seized in favour of other parties seeking enforcement and what their claims are. A third party obligated towards the debtor is liable for damage caused to the claimant due to the non-performance of their obligation.<sup>140</sup>

### III.8 Enforcement against shares

The enforcement officer decides whether to make an enforcement claim against securities. The claimant is not required to submit a separate application in order to enforce a claim against securities, but a respective notation is made in the

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<sup>136</sup> Code of Enforcement Procedure, § 111, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>137</sup> Code of Enforcement Procedure, subsections 4 and 5 of § 114, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>138</sup> Code of Enforcement Procedure, subsection 1 of § 119, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>139</sup> Code of Enforcement Procedure, subsection 4 of § 65, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>140</sup> Code of Enforcement Procedure, § 117, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>





enforcement application. The enforcement officer has access to information on the existence of securities in the electronic register of securities. The register contains information on shares, debt obligations and securities.

To seize securities, the enforcement officer sends to the registrar an order to make a notation concerning prohibition on the disposal of rights and obligations and as of being blocked in the register the securities are seized. If a security exists on paper, the enforcement officer takes possession of the security from the debtor. The enforcement officer presents a bill of exchange, cheque or bond for redemption where the security allows for it.

The enforcement officer sells securities in accordance with provisions governing the enforcement of a claim against movables. The enforcement officer has the right to register a security in the name of the buyer and to make the required applications to that end instead of the debtor. To sell registered securities, the enforcement officer submits to the registrar an order to transfer the seized securities to the enforcement officer's official securities account. The order is submitted to the registrar usually electronically via the information system that is mandatory for the enforcement officer, but the law allows for giving the order by post as well. The registrar executes the order to debit the debtor's securities account and credit the enforcement officer's securities account. Securities transferred to the enforcement officer's official account are sold by the enforcement officer in accordance with provisions governing the making of an enforcement claim against movables, transferring the securities to the buyer by way of a transfer of securities. The enforcement officer may sell listed securities or securities accepted for trading in a regulated securities market either at the respective securities exchange or regulated market, adhering to the requirements established in the rules of the respective securities exchange or regulated market.<sup>141</sup> It should be pointed out that it is prohibited to seize the units of a mandatory funded pension fund but, as regards voluntary pension fund units, the enforcement officer can demand the redemption of the units or, in the event of liquidation of the pension fund, the making of a payment.<sup>142</sup>

### III.9 Other attachment procedures

If the enforcement officer is pursuing a child maintenance support claim, the enforcement officer has the right to submit to the court an application for the suspension of the validity of the rights and permits held by the debtor as well as for prohibiting the granting thereof. The submission of an application to the court must be preceded by the warning of the debtor, provided that the claimant consents thereto.

If the debtor fails to perform the obligation to pay the monthly maintenance support within 30 days after being served a warning or conclude a payment schedule with the

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<sup>141</sup> Code of Enforcement Procedure, § 124, available on:  
<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>142</sup> Investment Funds Act, subsections 11–13 of § 64, available on:  
<https://www.riigiteataja.ee/akt/104122019006?leiaKehtiv>



claimant or state the reasons why the restriction of the rights and permits indicated in the warning is unfair to them, the court may, on the basis of the enforcement officer's application, suspend the debtor's:

- right to hunt,
- right to drive a motor vehicle,
- weapons permit and permit to acquire weapons,
- right to pilot a small craft or personal watercraft,
- fishing card.<sup>143</sup>

In a case concerning a handover of a child or access to a child, an enforcement act is performed with the participation of a representative of the local authority of the place of residence of the child or, by way of exception, of the place of residence of the obligated person. Such representative is required to have specialist knowledge in the field of communicating with children. If the obligated person obstructs compulsory enforcement, the enforcement officer may impose a coercive penalty payment on the obligated person. The enforcement officer is allowed to use force against the child or the obligated person for the purpose of handing over the child or granting access to the child only on the basis of a court decision. The court grants permission to use force for the purpose of the enforcement of a court decision only where the application of other measures has not or does not produce any results or where swift enforcement of the decision is required and the use of force is justified by the well-being of the child and it cannot be achieved in another way. Where necessary, the enforcement officer may raise with the local authority of the place of residence of the child or of the place of residence of the obligated person the issue of temporary placement of the child in a child welfare institution.<sup>144</sup>

As regards aircraft registered in the Estonian aircraft register, the provisions governing enforcement against immovables apply and, as regards ships registered in the maritime property register, the variations provided for in the Law of Maritime Property Act apply in addition to the provisions governing enforcement against immovables.<sup>145</sup> The Law of Maritime Property Act provides for the variation according to which, where a ship has not been registered, a claim is enforced against the ship in accordance with provisions governing enforcement against movables. A ship is seized solely for the purpose of settling a maritime claim and on the basis of a court order.<sup>146</sup> It is important to note that a claim can be enforced against a registered ship or a sea-going vessel only by way of a compulsory auction and compulsory administration is

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<sup>143</sup> Code of Enforcement Procedure, § 177<sup>1</sup>-177<sup>3</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>144</sup> Code of Enforcement Procedure, § 179, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>145</sup> Code of Enforcement Procedure, § 138, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>146</sup> Law of Maritime Property Act, § 78<sup>2</sup>, available on:

<https://www.riigiteataja.ee/akt/13110791?leiaKehtiv>



precluded.

Upon seizure of a ship, the seizure does not extend to the cargo of the ship or to the freight charges. The person seizing a ship takes the ship's documents from the ship, but the court is the authority that appoints a custodian for the ship. The custodian is not permitted to use the ship.

The following persons must be notified of a compulsory auction: ship register where the ship has been registered; all the known pledgees and holders of claims secured by a maritime lien; and the owner of the ship. An auction advertisement is published in accordance with the procedure set out in subsection 2 of § 84 of the Code of Enforcement Procedure, but a notice or advertisement of an auction must contain an explicit reference to the rights secured by the maritime lien. Ownership of a registered ship is transferred only after the compulsory auction report has become final, while ownership of a non-registered ship is transferred as of the moment of handing over possession.

The proceeds from the compulsory auction are divided as follows: costs related to the forced sale and seizure of the ship, also costs which the state has incurred on removing the ship from fairways, to ensure safe vessel traffic; claims secured with a maritime lien; claims secured by a maritime mortgage; other claims.

The buyer is entered, notations pertaining to enforcement proceedings and other entries are deleted and, where necessary, a maritime mortgage is entered in the maritime property register on the basis of a request of the enforcement officer.<sup>147</sup> Upon seizing ships sailing under a foreign flag, the International Convention of the Arrest of Ships and the Act on Joining the International Convention on Maritime Liens and Mortgages must be followed.

### III.10 Handing over movable assets

If the debtor is, according to an enforceable title, required to hand over a specific movable or a specific quantity of replaceable things or documentary securities, the enforcement officer takes these away and hands these over to the claimant. If an item is not found, the debtor is required to disclose the whereabouts of the moveable to the enforcement officer.<sup>148</sup>

Upon commencement of enforcement proceedings, the enforcement officer first sets a deadline for voluntary performance in accordance with the general procedure and if the debtor does not voluntarily perform the obligation arising from the enforceable title and does not disclose the whereabouts of the moveable, the enforcement officer may impose on the debtor a coercive penalty payment in accordance with the procedure set out in § 26<sup>1</sup> of the Code of Enforcement Procedure.<sup>149</sup> Upon the first

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<sup>147</sup> Law of Maritime Property Act, § 79–93, available on:

<https://www.riigiteataja.ee/akt/13110791?leiaKehtiv>

<sup>148</sup> Code of Enforcement Procedure, § 178, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>149</sup> Code of Enforcement Procedure, subsection 3 of § 178 and § 183, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



imposition of a coercive penalty payment, the payment amounts to 192–767 euro and, upon repeat imposition of the penalty payment, the size of the payment should not exceed 1,917.00 euro.<sup>150</sup>

Where the moveable recovered is in a third party's direct possession and they refuse to hand it over, the right to recover the item is seized on the basis of an application of the claimant. Where it is completely obvious that a third party has been granted direct possession of the moveable to be recovered for the purpose of evasion of the recovery, the enforcement officer has the right to remove the item from the third party's possession.<sup>151</sup> Where the enforcement officer is unable to find the moveable, the claimant is notified thereof.

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

The Code of Enforcement Procedure does not provide for a separate procedure for reinstating an employee to work, but the enforcement officer can enforce a court decision in the framework of the proceedings of an obligating claim. Where an employer does not comply with a court judgment, the enforcement officer can, in accordance with § 183 of the Code of Enforcement Procedure, obligate the employer to comply with the court decision and, if the obligation arising from the court decision is not performed, the enforcement officer can impose a coercive penalty payment in accordance with the procedure set out in § 26<sup>1</sup> of the Code of Enforcement Procedure.

The Supreme Court has held that, in the event of unlawful termination of an employment contract, the employee has the right to demand, above all, that they be reinstated to work and paid compensation for the time during which they were forced to be absent from work. Where an employee waives the reinstatement to work, the employer is required to pay them compensation to the extent of the employee's average salary of up to six months.<sup>152</sup>

### III.12 Eviction

The enforcement officer can initiate immovable recovery (eviction) proceedings on the basis of a final court judgment or a compulsory auction report. Where the initiation of immovable recovery proceedings is based on a final court judgment, the enforcement officer must follow the operative part of the court judgment upon conducting the proceedings and evict only the persons specified in the court judgment. The compulsory auction report is an enforceable title towards all the persons who possess the immovable without a ground and in such an event they do not need to be listed in the report<sup>153</sup>.

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<sup>150</sup> Code of Enforcement Procedure, subsection 4 of § 26<sup>1</sup>, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>151</sup> Code of Enforcement Procedure, § 181, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>152</sup> Judgment of the Supreme Court of 23 May 2008 in case 3-2-1-35-06, available on:

<http://www.riigikohus.ee/?id=11&tekst=RK/3-2-1-35-06>

<sup>153</sup> Order of the Supreme Court, 13 January 2016, case 3-2-1-162-15, available on:

<https://www.riigiteataja.ee/kohtulahendid/fail.html?fid=206105310>



The enforcement officer gives the debtor a time limit of up to three months in order to yield, hand over or vacate the immovable, but the enforcement notice on the relinquishment of the immovable must be served on the debtor at least 14 days before the planned compulsory enforcement<sup>154</sup>. Thus, the minimum time limit of voluntary performance is 14 days, but upon setting the time limit the enforcement officer must take into account a delay arising from the service of the enforcement notice. Thus, an eviction cannot take place before 14 days have passed from the service of the enforcement notice.

Where the debtor does not voluntarily vacate the immovable within the set time limit, the enforcement officer removes the immovable from the debtor's possession and grants the claimant possession of the immovable. Things and the debtor and the persons living together with the debtor are subject to eviction.<sup>155</sup> The law does not provide for any variations for the eviction of minors. Where necessary, the enforcement officer involves the police in the recovery of an immovable.

Movables that are not the subject of the compulsory enforcement are handed over to the debtor or placed at their disposal. If the debtor, the debtor's representative or the debtor's adult family member is not present at the eviction, the enforcement officer deposits the things at the debtor's expense. The enforcement officer does not deposit property whose sale is not practical due to its low value and the given property is evicted (except for non-seizable things). Where the debtor does not demand within two months following the vacating of the premises that the deposited things be returned or demands their return without paying the costs, the enforcement officer will sell the things and deposit the proceeds. Things that cannot be sold are destroyed.

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

Upon conducting enforcement proceedings, the enforcement officer follows the operative part of the court judgment. The operative part of the court judgment must be unambiguous to the enforcement officer and enforceable even without the remaining text. The operative part must set out the general parameters of enforcement.<sup>156</sup> Where the operative part of the judgment is unclear or does not set out the general parameters of enforcement, the enforcement officer cannot conduct enforcement proceedings. It follows from subsection 2 of § 368 of the Code of Civil Procedure that where in enforcement proceedings a dispute concerning the interpretation of an enforceable title arises, the claimant or the debtor has the right to file a court claim against the other party, demanding that it be established whether a certain right or obligation arises to the claimant from the enforceable title.

The court decides disputes over the division of the property belonging to joint owners and co-owners and determines the principles of distribution of the property. The fee

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<sup>154</sup> Code of Enforcement Procedure, § 180, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>155</sup> Code of Enforcement Procedure, subsections 2 and 3 of § 180, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>156</sup> Judgment of the Supreme Court of 28 April 2010 in case 3-2-1-31-10, available on:

<https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=206129442>





for organising an auction between co-owners is provided for in the Enforcement Officers Act and the enforcement officer's performance pay is 278.00 euro plus VAT. The fee is paid by the co-owner who made the best offer.<sup>157</sup> In the event of a public auction by which common ownership or joint ownership is terminated, the enforcement officer's performance pay is 278 euro plus VAT. Enforcement costs are deducted from the proceeds of sale and the co-owners or joint owners bear the enforcement costs in proportion to the part of the proceeds payable to them.<sup>158</sup>

The Code of Enforcement Procedure distinguishes between a replaceable act and an irreplaceable act. Where the debtor fails to perform an obligation arising from an enforceable title to perform an act but the act can be performed by a third party, the enforcement officer may allow the claimant to perform the act at the debtor's expense.<sup>159</sup> Where an act can be performed solely by the debtor and they fail to perform it by the deadline set or where the debtor breaches the obligation to tolerate a certain act or to refrain from a certain act, the enforcement officer may impose a coercive penalty payment. A coercive penalty payment is imposed in accordance with the procedure set out in § 26<sup>1</sup> of the Code of Enforcement Procedure.<sup>160</sup>

The advance payment of the enforcement officer's fee for the enforcement of an obligating court decision is 92.00 euro plus VAT and the enforcement officer's performance pay is 140.00 euro plus VAT.<sup>161</sup> The claimant is required to make the advance payment.

If the debtor voluntarily performs an obligation arising from a court decision but later does not perform an obligation specified in the court judgment, the enforcement officer can conduct enforcement proceedings on the basis of the same court decision.

### III.14 Sequestration of goods

The enforcement officer may deposit a seized thing with a third party and the keeper of the property is determined by agreement of the debtor and the claimant. If the debtor and claimant fail to reach an agreement, the enforcement officer determines the keeper of the property. The enforcement officer may not appoint the claimant or a person having the same economic interests as the claimant or the relatives or kin of the enforcement officer or claimant as the keeper of the property.

The enforcement officer deposits a thing with a third party on the basis of a seizure report and the keeper is responsible for the preservation of the thing. The keeper's fee and costs incurred on keeping the thing are included among the enforcement

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<sup>157</sup> Enforcement Officers Act, subsection 3 of § 36, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>158</sup> Enforcement Officers Act, subsection 3<sup>1</sup> of § 36, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>159</sup> Code of Enforcement Procedure, § 182, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>160</sup> Code of Enforcement Procedure, § 183, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>161</sup> Enforcement Officers Act, subsection 2 of § 36, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>





costs. If the keeper does not return the deposited thing at the request of the enforcement officer, the claimant may request that it be taken away from the keeper. To enter the premises or land used by the keeper, the enforcement officer can apply for a court order.<sup>162</sup> Usually, the enforcement officer uses depositing in the case of movables and ships.

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

A foreign court judgment needs to be declared enforceable in Estonia.<sup>163</sup> An application to recognise a foreign court decision and declare it enforceable is submitted to the court of the place of residence or seat of the debtor or to the court in whose judicial district the enforcement proceedings are to be carried out.<sup>164</sup> Separate court proceedings are not carried out for the purpose of recognising a foreign court decision and the court checks the prerequisites for declaring the court decision enforceable and whether there are grounds for refusal to recognise the foreign court judgment. The correctness of the court decision is not checked on the merits. Where necessary, the court may hear the debtor and the claimant and ask for clarifications from the court the recognition or enforcement of whose decision is being requested.<sup>165</sup>

In the framework of proceedings of declaring a foreign court decision enforceable, the court verifies whether documents submitted to it regarding the foreign court decision comply with the formal requirements and whether there are substantive grounds for declaring the court decision enforceable.<sup>166</sup> An application for declaring a foreign court judgment enforceable must be accompanied by:

- 1) a copy of the court decision authenticated in accordance with the law of the country of location of the court that made the decision;
- 2) a document certifying that the claim, summons or another proceedings-initiating document had been served on the defendant or another debtor specified in the decision in accordance with the law of the country;
- 3) a document certifying that, according to the law of the country where the decision was made, the decision has become final and enforceable and been communicated to the defendant or another debtor specified in the decision;
- 4) documents on the enforcement of the decision where the decision has already been enforced;

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<sup>162</sup> Code of Enforcement Procedure, § 72, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>163</sup> Code of Civil Procedure, § 621, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>164</sup> Code of Civil Procedure, § 121, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>165</sup> Code of Civil Procedure, § 623, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>166</sup> V. Kõve; I. Järvekülg, J. Ots. M. Torga - Annotated Edition of Code of Civil Procedure. Part III. § 623, comment 3.1



5) translations of the documents into Estonian, which have been made by a sworn translator.<sup>167</sup>

The participation of an attorney in the recognition and enforceability proceedings is not required.

An appeal against an order declaring a foreign court decision enforceable may be filed by the claimant and the debtor. An appeal should be filed within the time limit of one month as of the service of the court order; in the case of service in a foreign country, the time limit is two months from the service. An appeal against an order by which a foreign court decision was not declared enforceable may be filed by the claimant.<sup>168</sup>

Where an appeal has been filed against a foreign court decision, only measures of securing a claim may be taken for the purpose of compulsory enforcement of the foreign court decision. With the court's permission, however, seized movables may be sold in the course of enforcement proceedings and the money received from the sale may be deposited with the permission of the court if the seized property could otherwise be destroyed or its value could significantly decrease or if the deposition of the property is unreasonably expensive.<sup>169</sup> The appeal is decided by the court of appeal. The law does not provide for the obligation to use a representative in the appeal proceedings.

If the court decision that has been declared enforceable has been set aside or is revised by the court of the country of location, the debtor may request that the court that declared the court decision enforceable annul the declaration of the enforceability of the decision or revise it. In the framework of these proceedings, the court may suspend enforcement proceedings initiated on the basis of the decision that was declared enforceable, allow the continuance of the enforcement proceedings against a security or annul an enforcement act.<sup>170</sup> In addition to court decisions, it is possible to request that the court recognise other foreign enforceable titles, e.g., the recognition and enforcement of a document authenticated abroad by a notary or of another public enforceable title.<sup>171</sup> The proceedings of recognition of a foreign court judgment usually last for three to six months and in the event of a dispute these may take up to a year. Enforcement officers consider the proceedings of recognition of foreign court decisions to be effective and fast.

## **PART IV: ENFORCEMENT COSTS**

### **IV.1 The costs of enforcement**

<sup>167</sup> Code of Civil Procedure, subsection 1 of § 622, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>168</sup> Code of Civil Procedure, subsections 1 and 2 of § 625, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>169</sup> Code of Civil Procedure, subsection 3 of § 625, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>170</sup> Code of Civil Procedure, § 625, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>

<sup>171</sup> Code of Civil Procedure, § 627, available on:

<https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv>



An official act of the enforcement officer is not free of charge and upon charging a fee the enforcement officer must follow the rates and rules set out in the Enforcement Officers Act. The enforcement officer is not allowed to enter into agreements on the rates or the rules of charging their fees. The enforcement officer's fee consists of a fee for the commencement of the proceedings, the performance fee and, in some situations, also an additional enforcement act fee.<sup>172</sup> Along with the enforcement notice, a decision on the enforcement officer's fee is served on the debtor, indicating the size of the enforcement officer's fee inclusive of VAT and references to a provision of law based on which the fee has been charged. The decision on the enforcement officer's fee also sets out a reference to the contestation of the decision.<sup>173</sup>

Upon commencement of enforcement proceedings, the enforcement officer has the right to demand that the claimant make an advance payment of the enforcement officer's fee. No advance payment may be demanded from a person who submits a maintenance support claim for enforcement.<sup>174</sup> The size of the advance payment of the enforcement officer's fee depends on the size of the claim of the claimant and is indicated in a statute as a fixed sum.<sup>175</sup> If the advance payment is not made, the enforcement officer may refuse to commence enforcement proceedings. If the enforcement officer commences enforcement proceedings without demanding an advance payment or regardless of whether an advance payment has been made, the enforcement officer does not have the right to demand the making of an advance payment afterwards. In the event of payment of the enforcement officer's fee in full, the enforcement officer returns the advance payment to the claimant within one month as of the payment of the enforcement officer's fee. Where the enforcement proceedings are terminated without the settlement of the claim, the advance payment of the enforcement officer's fee is not refunded.<sup>176</sup>

During the enforcement proceedings, the enforcement officer can demand that the claimant transfer especially high enforcement costs to the enforcement officer's official account in advance. These enforcement costs may include the costs of transport, storage and guarding of goods and other similar costs. If the claimant is not willing to make an advance payment of the enforcement costs or does not make an advance payment by the due date and the enforcement proceedings are rendered more difficult as a result thereof, the enforcement officer may refuse to perform the enforcement act.<sup>177</sup> If the enforcement costs have been fully collected from the

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<sup>172</sup> Enforcement Officers Act, subsection 2 of § 29, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>173</sup> Enforcement Officers Act, subsections 2 and 4 of § 31, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>174</sup> Enforcement Officers Act, subsection 2 of § 29, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>175</sup> Enforcement Officers Act, subsection 1 of § 35, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>176</sup> Enforcement Officers Act, subsections 1–4 of § 33, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>177</sup> Code of Enforcement Procedure, subsections 1–5 of § 40, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>



debtor, the enforcement officer will refund the advance payment of the enforcement costs to the claimant. If the enforcement costs cannot be collected from the debtor within a reasonable period, the enforcement officer refunds the claimant at least a half of the advance payment of the procedural expenses paid by them.<sup>178</sup>

In the case of non-pecuniary claims, the person who requests the making of the official act is required to pay the fee for the commencement of the proceedings. In enforcement proceedings, the debtor pays the fee for the commencement of the proceedings.<sup>179</sup> In the case of pecuniary claims, the enforcement proceedings commencement fee depends on the amount of the claim of the claimant and on the costs incurred for serving the enforcement notice on the debtor. In the case of non-pecuniary claims, the enforcement proceedings commencement fee depends solely on the costs that are incurred for serving the enforcement notice. The costs of serving the enforcement notice are assessed based on whether the enforcement notice could be served to the debtor's address on the basis of their place of residence or seat or contact details or the address indicated in the enforceable title either with reasonable or unreasonable effort.<sup>180</sup> The size of the proceedings' commencement fee payable for the collection of the monthly maintenance support depends on the statutory minimum level of maintenance support.<sup>181</sup>

The enforcement officer's performance fee in enforcement proceedings is usually paid by the debtor, while the person who requests the performance of an official act pays the performance fee for other official acts.<sup>182</sup> In the case of pecuniary claims, the size of the enforcement officer's performance fee depends on the size of the claim of the claimant and is a fixed sum.<sup>183</sup>

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<sup>178</sup> Code of Enforcement Procedure, subsections 1 and 2 of § 41, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>179</sup> Enforcement Officers Act, subsections 1 and 2 of § 30, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>180</sup> Enforcement Officers Act, subsection 1 of § 34, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>181</sup> Enforcement Officers Act, subsection 1 of § 37, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>182</sup> Enforcement Officers Act, §§ 28–30, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>183</sup> Enforcement Officers Act, subsection 1 of § 35, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>



Amount of claim for payment up to... euros	Rate of bailiff's basic fee in euros	Advance payment of bailiff's fee in euros	Amount of claim for payment up to... euros	Rate of bailiff's basic fee in euros	Advance payment of bailiff's fee in euros
35	25	20	8000	700	191
65	40	20	9000	760	191
130	65	20	10 000	830	191
200	90	25	12 500	960	191
300	105	25	15 000	1100	191
400	115	30	17 500	1250	191
500	130	30	20 000	1350	191
750	175	35	25 000	1550	191
1000	225	40	50 000	2100	191
1500	300	45	75 000	2900	191
2000	380	50	100 000	3600	191
2500	450	55	150 000	4500	191
3000	500	60	200 000	5500	191
4000	540	191	250 000	6000	191
5000	570	191	350 000	6500	191
6000	610	191	500 000	7000	191
7000	650	191	> 500 000	7000	319

In addition, enforcement acts with a fixed performance fee have been stipulated. These are as follows:<sup>184</sup>

- the yielding of a movable - the bailiff's basic fee shall be 140 euros and the advance payment of bailiff's fee shall be 92 euro;<sup>185</sup>
- the yielding of an immovable (eviction) - the basic fee shall be 140 euro and the advance payment of bailiff's fee shall be 92 euro;
- the handover of a child and granting access to the child- the basic fee shall be 140 euro and the advance payment of bailiff's fee shall be 92 euro;
- organising an auction between co-owners - the basic fee shall be 278 euro; the fee shall be paid by the co-owner who made the best offer;
- organising a public auction that terminates common or joint ownership - the basic fee shall be 278 euro; the enforcement expenses shall be deducted from the sales proceeds and the enforcement expenses shall be covered by the co-owners or joint owners in proportion to the share of proceeds payable to them;
- compliance with an instruction to arrange the delivery and receipt of the possession of an immovable subject to compulsory sale;
- enforcement of a decision aimed at the performance of another act - the basic fee shall be 140 euro and the advance payment of bailiff's fee shall be 92 euro.

For an order securing a claim and in the event of the annulment of the securing of a

<sup>184</sup> Enforcement Officers Act, subsection 1 of § 36, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>185</sup> The term bailiff is used here synonymously with enforcement officer.



claim, the enforcement officer's fee is paid by the person who requested the application of the claim-securing measure. The performance fee paid for securing a claim depends on the value of the claim and on whether the order securing the claim applies to a pecuniary or a non-pecuniary claim. The basic fee payable for execution of the order for securing an action shall be based on the value of the action and shall be paid as follows:

- 1) if the value of the action is up to 3200 euro, the fee shall be 70 euro;
  - 2) if the value of the action is 3201–12 800 euro, the fee shall be 140 euro;
  - 3) if the value of the action is more than 12 800 euro, the fee shall be 278 euro.
- If the order for securing an action concerns a non-monetary claim or the value of the action has not been determined or is unspecified, and in the case of enforcement of the order for revocation of securing an action or enforcement of a judgment, the bailiff's fee shall be 92 euro. If the order for securing an action concerns both a monetary and non-monetary claim, the fee rates prescribed in subsections (1) and (2) of this section shall be totaled. The enforcement officer's fee falls due upon the submission of a claim-securing order for compulsory enforcement and if the claimant does not pay the enforcement officer's fee, the enforcement officer may refuse to commence enforcement proceedings.<sup>186</sup>

If the debtor settles the claim indicated in the enforceable title within the time limit of voluntary performance, only the fee for the commencement of the enforcement proceedings is subject to payment. If the debtor does not settle a claim within the voluntary performance period, but the claim is settled in full within three working days after sending a seizure report to a credit institution, the enforcement officer's performance fee must be paid in full in the sum of 22.00 euro plus VAT. If the claim is not settled on the basis of an assets seizure report sent to a credit institution, the enforcement officer's performance fee must be paid in full.

It should be pointed out that where a claim is collected in part, the enforcement officer has the right to receive the performance fee in proportion to the partially collected sum.<sup>187</sup> Where it becomes evident in the course of the enforcement proceedings that the debtor has paid the claim to the claimant before the latter filed an application, the claimant pays the proceedings commencement fee. Where the claimant requests that the enforcement proceedings be terminated before the claim has been fully settled via the enforcement officer and enforcement acts have been performed for the purpose of collecting the claim, the claimant pays the proceedings commencement fee and half of the performance fee in proportion to the non-collected sum.<sup>188</sup>

The enforcement costs are the enforcement officer's fee and the necessary costs

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<sup>186</sup> Enforcement Officers Act, § 38, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>187</sup> Enforcement Officers Act, subsections 2–5 of § 32, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>188</sup> Enforcement Officers Act, subsections 1 and 2 of § 41, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>





incurred by the enforcement officer and the claimant or third party after the commencement of the enforcement proceedings.

Enforcement costs include, above all:

- the charges and fees incurred for establishing personal data and property data;
- costs of sending documents;
- costs of transport;
- storage and guarding of seized property and other costs related to keeping the property;
- costs of opening, closing, removing, demolishing and cleaning of rooms or other objects;
- travel and accommodation costs related to enforcement acts;
- costs of the compelled attendance of the debtor and organisation of an auction.

The costs of legal assistance used by the enforcement officer or the claimant upon commencement or in the course of the enforcement proceedings and the costs of administration and management of the office of the enforcement officer are not deemed to be necessary costs.<sup>189</sup> Upon incurring enforcement costs, the enforcement officer has to incur the lowest possible cost in order to spare the debtor from excessively burdensome obligations and, upon calculation of the size of the costs, the generally accepted accounting principles and the principle of economy must be followed. Detailed accounts are kept of the enforcement costs and a decision to award enforcement costs must be submitted along with a list of the costs and a reference to the debtor's right to access the documents certifying the costs must be made therein. There is a maximum limit to the compensation of travel and accommodation costs and as regards the use of a vehicle it has been stipulated that travel costs can be claimed to the extent of up to 0.25 euro per kilometre.<sup>190</sup>

The law does not establish any restrictions regarding other enforcement costs. The debtor bears the enforcement costs and the enforcement costs are claimed on the basis of a decision to award them.<sup>191</sup> The debtor has the right to demand that the claimant refund the enforcement costs paid when the enforceable title serving as the basis for the compulsory enforcement has been set aside.<sup>192</sup>

The enforcement officer can charge an additional fee for an enforcement act that is

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<sup>189</sup> Code of Enforcement Procedure, subsection 1 of § 37, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>190</sup> Enforcement Officers Regulation, §§ 61–63, available on:

<https://www.riigiteataja.ee/akt/130112018018?leiaKehtiv>

<sup>191</sup> Code of Enforcement Procedure, subsections 1 and 2 of § 38, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv>

<sup>192</sup> Code of Enforcement Procedure, § 42, available on:

<https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv#para38>



technically or legally complicated or time-consuming. The additional fee is added to the performance fee and it can be claimed only when the debtor has failed to settle the claim within the time limit of voluntary settlement. The enforcement officer has the right to charge an additional fee for seizure performed outside the enforcement officer's office, organising and carrying out an auction, the sale of property in another way and the sale of movables. The additional fee is charged as a fixed sum or at an hourly rate. The procedure for and extent of charging the additional fee is provided for in the Enforcement Officers Act.<sup>193</sup>

A decision made on the enforcement officer's fee and enforcement costs is a separate enforceable title and, on the basis, thereof the expiry of the enforcement officer's fee, including the enforcement costs is calculated similarly to other enforceable titles. In the event of the expiry of a claim in a misdemeanour or criminal case, the enforcement officer terminates the claimant's claim due to expiry, but the enforcement officer may continue proceedings for the purpose of collecting the enforcement officer's fee, including the enforcement costs.<sup>194</sup> The enforcement officer has the right to demand that the state make an advance payment upon commencement of enforcement proceedings. Likewise, the state, be it the claimant or the debtor, is not discharged from paying the enforcement costs.

## PART V: LINKS, LITERATURE AND SOURCES

### Estonian:

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2. Kõve, V; Järvekülg, I, Ots, J. Torga, M. - Annotated Edition of Code of Civil Procedure Part I, II, III
3. Chamber of Enforcement Officers and Bankruptcy Trustees, available on: <https://kpkoda.ee/>
4. Code of Civil Procedure, available on: <https://www.riigiteataja.ee/akt/119032015027?leiaKehtiv;>
5. Code of Enforcement Procedure, available on: <https://www.riigiteataja.ee/akt/131122012015?leiaKehtiv;>
6. Good Enforcement Practice, available on: [http://www.kpkoda.ee/doc/Hea%20ametitava\\_1.pdf](http://www.kpkoda.ee/doc/Hea%20ametitava_1.pdf)
7. Enforcement Officers Act, available on: <https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv;>
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<sup>193</sup> Enforcement Officers Act, §§ 44–47, available on:

<https://www.riigiteataja.ee/akt/112032015093?leiaKehtiv>

<sup>194</sup> Order of the Supreme Court of 2 November 2011 in case 3-2-1-79-11, available on:

<https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=206130192>



9. Investment Funds Act, available on:  
<https://www.riigiteataja.ee/akt/104122019006?leiaKehtiv>
10. Law of Maritime Property Act, available on:  
<https://www.riigiteataja.ee/akt/13110791?leiaKehtiv>
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14. Decisions of the Supreme Court, available on:  
<https://www.riigikohus.ee/et/lahendid?>

**English:**

1. Chamber of Enforcement Officers and Bankruptcy Trustees, available on:  
<https://kpkoda.ee/en/>
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<https://www.riigiteataja.ee/en/eli/ee/512122019004/consolide/current>
3. Code of Enforcement Procedure, available on:  
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<https://www.riigiteataja.ee/en/eli/ee/512122019002/consolide/current>;
6. Law of Maritime Property Act, available on:  
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7. Penal Code, available on:  
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