



Hungary

Narrative National Report

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Table of Contents

PART I: LEGAL FRAMEWORK	4
I.1 Legislation affecting civil enforcement.....	4
I.2 Enforceable titles.....	4
I.3 Service of documents to parties and third parties	5
I.4 Legal remedies, appeal and objection.....	8
I.5 Postponement, suspension and termination of enforcement	9
I.6 Counter enforcement	10
I.7 Objects and exemptions on enforcement	11
I.8 (Court) penalties and fines	12
I.9 Access to information on the domicile and assets of the debtor	12
PART II: ORGANIZATION OF ENFORCEMENT.....	13
II.1 The status of the judicial officer.....	13
II.2 Supervision over enforcement	15
II.3 Access to the premises.....	15
II.4 Obstructing the judicial officer from carrying out enforcement	16
II.5 Time of enforcement	16
II.6 Mediation	16
PART III: ENFORCEMENT PROCEDURES	16
III.1 Initiation and end of the enforcement procedure	16
III.2 Enforcement against movable assets to settle pecuniary claims	18
III.3 Attachment on the bank account of the debtor.....	21
III.4 Enforcement against savings deposits and current accounts.....	23
III.5 Enforcement on immovable property	23
III.6 Enforcement against wages and other permanent pecuniary income	25
III.7 Attachment under the debtor's debtor.....	27
III.8 Enforcement against shares	28
III.9 Other attachment procedures	28
III.10 Handing over movable assets	29
III.11 Enforcement in reinstatement of employee to work	29
III.12 Eviction	29
III.13 Enforcement of obligations to act, refrain from acting or suffer action.....	31
III.14 Sequestration of goods	32
III.15 Enforcement of foreign enforceable documents from non-EU States	32





PART IV: ENFORCEMENT COSTS	33
IV.1 The costs of enforcement	33
PART V: LINKS, LITERATURE AND SOURCES	35



PART I: LEGAL FRAMEWORK

I.1 Legislation affecting civil enforcement

In Hungary, the process of court enforcement and the implementation of enforcement proceedings are determined by law, while other areas related to enforcement, e.g., the bidding of the bailiff¹, the operation of the bailiff's office, and the operation of the national order of judicial officers representing the judicial officers' interests are regulated by government decrees and decrees of the Ministry of Justice.

The most important legislation on civil enforcement includes the following Acts and Decrees:

The general rules of judicial enforcement are set out in Act LIII of 1994 on Judicial Enforcement.² In court enforcement, the laws of Act CXXX of 2016 on the Code of Civil Procedure³ are applied in a subsidiary manner. Detailed rules for the service of documents by judicial officers are set out in Government Decree n° 250/2004 (VIII.27).⁴ The costs of enforcement proceedings are covered by Decree of the Ministry of Justice n° 35/2015. (XI.10)⁵. The representative body of judicial officers is the National Order of Judicial Officers of Hungary, whose tasks and operation are regulated by Decree of the Ministry of Justice n° 5/2016. (III.8).⁶ A detailed description of the organization of judicial enforcement, in particular the conditions for filling bailiffs' posts, the distribution of enforcement cases, the bailiff's examination, bailiff's certificates, etc., is contained in Decree of the Ministry of Justice n° 16/2001. (X.26).⁷ The detailed rules for the operation of the IT application of the electronic auction system are set out in Decree n°27/2008. (XII.10).⁸

I.2 Enforceable titles

Enforcement orders include the following:

¹ Both bailiff and judicial officer are used to be referred to as bailiff. The law uses the term bailiff, while the National Translation and Translation Certification Bureau uses the term judicial officer.

² Act LIII of 1994 on Judicial Enforcement, available on: <https://net.jogtar.hu/jogszabaly?docid=99400053.TV>

³ Act CXXX of 2016 on the Code of Civil Procedure, available on: <https://net.jogtar.hu/jogszabaly?docid=A1600130.TV&searchUrl=/gyorskereso%3Fkeyword%3D2016.%2520%25C3%25A9vi%2520CXXX.%2520t%25C3%25B6rv%25C3%25A9ny%2520a%2520polg%25C3%25A1ri%2520perrendtart%25C3%25A1sr%25C3%25B3>

⁴ 250/2004. (VIII. 27.) Government Decree on the detailed procedural rules of service of documents by judicial officers, available on: <https://net.jogtar.hu/jogszabaly?docid=A0400250.KOR>

⁵ 35/2015. (XI. 10.) Decree of the Ministry of Justice on bailiffs' fees, available on: <https://net.jogtar.hu/jogszabaly?docid=A1500035.IM>

⁶ 5/2016. (III.8) Decree of the Ministry of Justice on certain tasks of the National Order of Judicial Officers and on the amendment of certain ministerial decrees in the field of justice, available on: <https://net.jogtar.hu/jogszabaly?docid=A1500035.IM>

⁷ 16/2001 (X. 26) Decree of the Ministry of Justice on the organization of judicial enforcement, available on: <https://net.jogtar.hu/jogszabaly?docid=A0100016.IM>

⁸ Decree n°27/2008, available on: <https://net.jogtar.hu/jogszabaly?docid=A0800027.IRM>



- certificate of enforcement issued by the court or a notary public;
- document with an enforcement clause issued by the court or a notary public;
- a judicial order or restraint of enforcement, or writ of transfer, furthermore, a decree of direct judicial notice;
- judicial notice on a disciplinary fine, if collection of such fine imposed in the course of an enforcement procedure is carried out by an independent court bailiff pursuant to Subsection (5) of Section 45/A; and
- a request made to the central Hungarian authority designated under Council Regulation 4/2009/EC for obtaining information concerning an individual who owes or who is alleged to owe maintenance.

An enforcement order can be issued if the writ of execution contains an obligation (ruling against the judgment debtor), is final, definitive or is subject to preliminary enforcement, and if the resolution of the public prosecutor's office and/or the investigating authority is not subject to further remedy, and the deadline of performance has expired. On the basis of a court-approved settlement, an enforcement order may be issued even if the writ of approval has been contested. This provision shall apply also to settlements approved by a notary public, as having the same effect as court-approved settlements. Due to a judgment given pursuant to the procedure specified in Regulation (EC) No. 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, an enforcement order may be issued notwithstanding any possible appeal lodged against the judgment.

An enforcement order may not be issued relying on a binding order for payment if enforcement is *res judicata* refused regarding the claim in question by the court in its final judgment.

The court shall issue an enforcement order upon request by the judgment creditor.

When filing a petition for enforcement, the judgment creditor shall disclose mandatory (content elements of the application for enforcement):

- The judgment debtor's name (denomination of organization, corporate name of company) and any data necessary for his/her identification (at least the place and date of birth, mother's name, registration number of organization, company registry number).
- Furthermore, depending on the circumstances of the case, the judgment debtor's domicile, workplace or registered address, place of business (hereinafter referred to as "registered address") and the venue where the judgment debtor's enforceable assets are located; at least one item from the data listed in this Paragraph shall be disclosed.
- If applying for enforcement of an immovable property claim, the real estate registration data shall also be supplied.

1.3 Service of documents to parties and third parties

In accordance with **Act III of 1952 on Civil Procedure**, court documents must be served by post -unless otherwise provided by law. This service must be made in accordance



with the legal provisions applicable to the service of official documents.

The judicial officer may serve documents if they have already been served by post and there is a presumption of service. Judicial officers' service is not ex officio, as the cost is paid by the person requesting service; if enforcement is instituted on the basis of the decision served, its costs, such as those relating to the application for enforcement, are borne by the debtor. This is the general rule that narrows the cases of service by judicial officers quite narrowly. However, section 16 (3) of Act L of 2009⁹ on the order for payment procedure allows: the holder of the order for payment may, at the outset of the proceedings, request that the order for payment be served by the judicial officer and not by the postman. In this case, too, a separate fee must be paid, for which the holder cannot benefit from a cost reduction, but at the same time they can enforce the enforcement service fee as a procedural cost against the debtor.

Act LIII of 1994 on the enforcement of judicial decisions provides for the service of procedural documents by judicial officers. Service by judicial officer includes identification of the addressee and the delivery of the document in person in order to ensure that the document is actually delivered to the addressee and that the purpose of the document is recorded in an authentic deed. In order to trace the addressee of a document, the judicial officer may contact any authority which keeps records of the addressee's whereabouts, registered office, premises or whereabouts of his/her property, if the request is made online or electronically.

The service process costs are borne by the party who requests the service; however, if execution proceedings are initiated on the basis of a ruling, the costs of service of the procedural documents served by the judicial officer (the cost of an application for enforcement) are the responsibility of the debtor. The judicial officer serves the document to the addressee in accordance with the provisions of other specific legislation and prepares a report of said service, a copy of which is sent to the court where the ruling was given and is deemed to have been served. The judicial officer also informs the party who requests the service if this has been carried out. The judicial officer - on request - is authorized to collect information regarding the permanent or habitual residence of the addressee or any other place at which the addressee may be located. The judicial officer may not disclose information obtained on the addressee to the party who requests the service, other than the location of the service.

The service may be carried out by a judicial officer of an independent court or an alternate judicial officer, or an assistant judicial officer, provided that he/she is duly authorized to serve procedural documents.

The detailed rules of procedure for judicial officer's service are set out in Act No 250/2004 (VIII. 27.) Government Decree.

The request for service must be presented to the *Hungarian Association of Court Bailiffs*. The service is assigned by the Association in accordance with the case-allocation rules under separate legislation, based on the address of the addressee as

⁹ Act L of 2009 on the order for payment procedure, available on:
<https://net.jogtar.hu/jogszabaly?docid=a0900050.tv>



specified in the court decision, or in the case of special service, between bailiffs competent for service based on the address of other places indicated by the applicant. The application must be submitted using the form approved by the official body of the *Hungarian Association of Court Bailiffs*. The application may be submitted by post or electronic means.

The request for service shall include the following information:

- the applicant's name and address (contact information),
- the court (notary) which delivered the judgment to be served and the number of the judgment,
- the name of the natural person and, in the case of special deliveries, the personally identifiable information, if the applicant is aware of it, he/she must state the fact that the addressee, for example, is a person under 14 years of age (name and address of legal representative must be provided) or a person under guardianship (name and address of guardian must be provided).

The application must be accompanied by:

- a copy of the final court decision (if necessary, a copy of the court order declaring it to be final) and
- a copy of the court notice stating the fiction of service, etc.

The applicant shall enclose with the application a copy of the transfer order or postal receipt attesting to the payment of the service fee as laid down in a separate legal act. Within 5 working days of receipt of the application, the Association shall distribute the case for service and transfer to the bailiff the service fee paid by the applicant.

The service can be:

- special service¹⁰ or
- ordinary service¹¹.

¹⁰ An application for special service may be made at the same time as the application for ordinary service or after receipt of the report on the failure of ordinary service. Alternatively, an application only for special service may be made directly.

¹¹ The ordinary service is as follows: within 15 days of receipt of the application, the bailiff shall carry out the on-site procedure at the place of service, during which he/she may enter the property or premises at the place where the service is to be effected, but if the place is blocked, he/she cannot open it.

The bailiff informs the addressee, acting at the address indicated in the court decision as the address of the natural person, without prior notification to the addressee, that he/she is acting as a bailiff for service and personally handing over the court document to him. In addition to giving the court document, the operative part of the court decision and the information indicated on the court document are read to the addressee if for example: the addressee is blind, severely impaired, illiterate or does not recognize the Latin letters.

The bailiff will service the court document to the addressee once the latter has been identified. If the addressee acknowledges that he/she is the person named as the addressee in the court decision but fails to prove his/her identity, the bailiff shall hand over to him/her the document that shall be deemed to have been received. Receipt of a judicial document shall also be deemed to be serving if



For the service of order for payment issued **by a notary** the provisions relating to the service of a judicial decision shall apply, with the following exception: the order for payment can't be served to an alternate receiver. Service must be effected within 8 days of receipt by the bailiff of the document to be served. The notary issuing the order for payment shall be notified of the result of the service.

Electronic service system of enforcement documents: The bailiff shall serve the documents created during the execution electronically using the e-service system, if the use of the service system is mandatory by law. The National Order of Judicial Officers of Hungary operates the so-called VIEKR system for the electronic service of documents, the use of which is optional for those concerned in enforcement cases and mandatory for bailiffs and financial institutions. However, if the party chooses to use VIEKR, it must always submit its submissions to bailiff through this channel.

1.4 Legal remedies, appeal and objection

The party or another person of concern whose right or lawful interest is prejudiced by any action of the judicial officer that constitutes a significant violation of the rules of enforcement, or by his/her failure to take action may file a demurrer of enforcement with the court responsible for enforcement. A **demurrer** shall be filed within fifteen days of the contested action and submitted to the judicial officer, who shall forward it to the court responsible for enforcement within three working days, together with copies of the documents relating to the contested action. No demurrer may be filed against an enforcement action after a period of three months. The court shall examine the demurrer promptly, at the latest within eight working days from the date of

the bailiff is unable to physically service the court document to the addressee, but in the presence of the addressee, with the information provided, leaves it in the apartment or other property used for stay. A court document shall be deemed to have been received even if the addressee refuses to accept it or if the addressee leaves the place of service at the time of the service or the provision of information.

If the addressee is not a natural person, the document may be served to the following persons: head of the organization, executive officer, member or employee of the organization having the right of representation, an employee of the organization certifying receipt by signing and stamping in the name of the organization, an employee or member of the organization working in the place for customer service.

If the addressee is a natural person, the court document may also be served on an alternate receiver, e.g., a close relative of the addressee over the age of 14, or a relative living with him/her, a lessee or a landlord of the natural person of the recipient. If the place of service is not an apartment, but an institution, the bailiff seeks the director or other employee of the institution to facilitate service. The head of the institution shall immediately inform the bailiff if the addressee is staying in the institution.

If the place of service is a hotel, the manager of the hotel must inform the bailiff of the exact location of the addressee's stay within the hotel: room, apartment number, etc. If there are several persons at the place of service who have the same name as the addressee and one of them acknowledges that he/she is the addressee of a court document, he/she shall be deemed to be the addressee for service. If none of the above persons acknowledges that he/she is the addressee of the court document or if more than one person accepts it, notification of service of a document shall be left to each person.



receipt, to determine whether it contains any remediable deficiencies, or whether the case should be referred to another court or should be rejected, and shall take the measures necessary. The court shall adopt a ruling concerning the demurrer of enforcement within forty-five days, except if it entails the hearing of the parties or the taking of other evidence.

An appeal may be lodged against any court order passed in the course of implementation of enforcement. If the court ruling is in favor of the demurrer of enforcement, it may be appealed by the bailiff.

The provisions of the Code of Civil Procedure shall apply *mutatis mutandis* to the correction or adjustment of enforcement orders and court decisions passed in connection with enforcement, to the deadlines of appeals and other legal remedies, the justification for failure to meet such deadlines, as well as to other procedural issues in connection with legal remedies in general.

In case that ordering judicial enforcement falls within the competence of a **notary public**, the provisions shall apply subject to the following exceptions:

- the court of origin for ordering enforcement and a resolution adopted by the court ordering enforcement shall be understood, respectively, as the notary public and a notarial resolution;
- appeals lodged against a notarial resolution shall be heard by the general court of jurisdiction by reference to the notary's registered office.

The Hungarian Association of Court Bailiffs pursuant to Article 250 (2)(10) of Act LIII of 1994 on Judicial Enforcement processes **complaints** filed in connection with judicial officers, judicial officer- substitutes and assistant judicial officers; that is to say, claims for damages of an individual legal or interest nature, the settlement of which does not fall within the jurisdiction of a court, authority or other body.

I.5 Postponement, suspension and termination of enforcement

I.5.1 Suspension of enforcement

The court authorizing enforcement shall suspend the enforcement procedure, if so requested by the judgment creditor, and if such suspension does not violate the rights of any other party. The court of origin for authorizing enforcement may accept the request of the judgment debtor and suspend the enforcement procedure if the judgment debtor is able to substantiate the reason and reasonable cause therefor, and if he/she has not previously been fined for contempt during the enforcement procedure. If the enforcement procedure concerns the evacuation of a residential unit, suspension may be ordered only once, upon the judgment debtor's request, for a maximum period of six months. When deliberating reasonable cause for the suspension of enforcement, the court shall, in particular, weigh the number of dependants to be supported by the judgment debtor whether by order or necessity, if the judgment debtor or any dependant suffers from a serious illness and any natural disaster during the enforcement procedure to which the judgment debtor has also fallen victim. If the court ruled to suspend the enforcement procedure, the subject of

which is a money claim, by request of the judgment debtor, it shall apply to the garnishment of the judgment debtor's wages, to the preparation of the announcement of the sale of movable and/or immovable property, to the sale of such property, and to the payment of sums of money received; all other acts of enforcement shall be carried out during the period of suspension. A suspended enforcement procedure may be continued upon order by the court issuing the writ of suspension.

1.5.2 Temporary discontinuance of enforcement

Enforcement can be temporarily discontinued, if the identity of the judgment debtor cannot be established because the necessary information is lacking, the judgment debtor has died, or - if other than a natural person - has been dissolved and the judgment creditor did not request to have succession established, the judgment creditor has declined to participate in the procedure, the judgment debtor has no assets to be seized, the sale of seized assets was unsuccessful, the judgment creditor has not advanced the cost of enforcement, in spite of being required to do so, or the judgment debtor was granted respite for performance, was permitted to perform in instalments, or was granted payment facilities by the bailiff.

1.5.3 Termination and limitation of enforcement

The court of origin for authorizing enforcement shall terminate or limit the enforcement procedure by decree, if so requested by the judgment creditor and the termination or limitation does not violate the rights of another party. The court responsible for enforcement shall terminate or limit the enforcement procedure by way of a ruling if: 1) it has found, on the basis of an authentic instrument, that the decision to be enforced has been withdrawn or reversed by a final decision, or by definitive court decision in criminal proceedings, or a resolution of the public prosecutor's office and/or the investigating authority that is not subject to further remedy, or that the enforceable decision was abolished, or 2) it has found, on the basis of a final court decision, that the claim to be enforced under a document with an enforcement clause or the underlying legal relationship had not validly been established, in part or in whole.

The ruling adopted on the matter of termination and limitation of enforcement may be appealed.

1.6 Counter enforcement

The court ordering enforcement may, upon the judgment debtor's request, compel the judgment creditor by decree to return the money (assets) received in the course of enforcement, in full or in part, to the judgment debtor, along with the enforcement costs, or the appropriate portion thereof. This provision shall also be applied if the judgment debtor has fulfilled his/her obligation voluntarily in order to avoid enforcement and has provided proof therefor. Money (assets) received as support shall not be returned in this manner. In this case the bailiff acting in the original process shall continue the procedure within the framework of the original process (reverse enforcement).



1.7 Objects and exemptions on enforcement

The following personal properties are exempt from enforcement:

- the means which are essential for the judgment debtor to exercise his/her occupation (profession), thus in particular indispensable tools, instruments, technical, military and other equipment and accessories, uniforms, self-defense weapons, transportation equipment, other than motor vehicles;
- means indispensable for pursuing regular studies, thus in particular textbooks, educational materials, musical instruments;
- essential articles of clothing, three sets of upper garments, one winter-coat, one over-coat, three pairs of shoes;
- necessary bed linen: one set per person complete with two sets of covers;
- furniture as sufficient to accommodate the number of the persons living in the judgment debtor's household, no more than three tables and three cabinets or other furniture serving the same purpose, one bed or other sleeping facility and one chair or other sitting furniture per person;
- means of heating and lighting as necessary;
- kitchen and household appliances indispensable for the judgment debtor's household, furthermore one refrigerator or freezer and one washing machine;
- any decoration (order of merit, medal, badge, plaque), granted to the judgment debtor, as verified by an official document;
- medicine, medical and technical aids prescribed for an ailment or disability of the judgment debtor, the judgment debtor's automobile if handicapped;
- objects used by a child living in the judgment debtor's household, if designed for children only;
- one month's supply of foodstuffs and three month's supply of heating fuel for the judgment debtor and the persons living in his/her household;
- crops and fruits not yet harvested;
- things which cannot be taken into account in liquidation proceedings as being the judgment debtor's property;
- cultural goods listed in the certificate specified in the Act on the Special Protection of Borrowed Cultural Goods, during the period of special protection.

The following shall be also exempt from enforcement:

- sums received with decorations, honorary titles, prizes, badges, diplomas;
- insurance money, not including the portion payable for seized property;
- money deposited into the strike fund of a trade union;
- copyright of an author or his/her legal successor;
- fifty per cent of royalties;
- share of cooperative members from the cooperative society's assets;
- compensation notes received by entitlement while retained by the person of entitlement;
- money and other consignments mailed, as well as objects deposited with a public carrier for carriage, until they are delivered by the postal service;
- emergency and specific oil stocks appertaining to the Magyar Szénhidrogén



Készletező Szövetség (Hungarian Association for the Stockpiling of Hydrocarbons);

- objects deposited in a public warehouse;
- the rights relating to objects deposited in public warehouses, as well as documents thereof (docket and lien warrant).

In respect of a judgment debtor engaged in agricultural production as a profession, the following shall be exempt from enforcement:

- sowing seeds, agricultural equipment and machinery, draught animal and fodder necessary for the cultivation of the judgment debtor's land;
- one cow or other farm animal along with three month's supply of fodder.

Assets and property which are exempted from enforcement by law shall not be seized.

If the law permits an alternate choice among certain property items for the purposes of exemption from enforcement, such shall be selected by the judgment debtor present during the seizure procedure.

A thing otherwise exempt may also be seized in order to satisfy the purchase price, the loan for purchase, or the costs of manufacture or repair of such thing, if so prescribed by the court. Assets and property which are exempted from enforcement by law shall not be seized, even if the judgment debtor consents to seizure of such.

It isn't possible to enforce against the wealth of foreign countries or international organizations in our country.

1.8 (Court) penalties and fines

The court authorizing enforcement can fine the judgment debtor or the person or organization obliged to participate in the enforcement procedure for contempt for failure to satisfy the obligations prescribed by law in connection with enforcement, or for engaging in any conduct aiming to obstruct the authority carrying out the enforcement procedure. The fine for contempt cannot exceed the enforceable amount. No fine for contempt may be imposed for the sole reason of the judgment debtor's failure to comply with his/her obligation prescribed in the enforcement order. If the subject of the fine is a legal person or an unincorporated organization, and if the fine is substantiated, the head or the authorized representative of such legal person or organization may also be fined for contempt concurrently. The ruling ordering the fine for contempt may be appealed. The final ruling of the court ordering a fine for contempt shall be deemed and treated as an enforcement order and shall be sent by the court ordering the fine to the bailiff. If the fine is imposed against the judgment debtor before the procedure is concluded, the bailiff shall collect it as part of the enforcement procedure.

The fines can be imposed repeatedly but can't be turned to imprisonment.

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

In the interest of carrying out the enforcement procedure successfully, the judicial officer shall obtain information for the identification of the judgment debtor and other particulars, such as permanent or habitual residence, head office, place of business,



place of employment (or self-employment), income and any property that can be seized (movable or immovable property, payment account, deposit, securities, partnership share or other interest in a business association etc.) The bailiff is entitled to approach the authorities and organizations so as to obtain the information, such as the police, departments of motor vehicle registration, agencies for personal data and address records, district offices of Budapest and county government agencies (hereinafter referred to as “district office”), pension insurance administration agencies and health insurance administration agencies, tax authorities, courts of registry, payment service providers, investment firms, the real estate supervisory authority, agencies of water and aircraft passenger records, telecommunications organizations, the organization maintaining the records of liens on movable properties (hereinafter referred to as “lien records”) and operating the collateral register, notaries public, and the Association, so as to review the records of enforcement procedures. The above-specified authorities and organizations are obligated to satisfy the bailiff's request for information within 8 days free of any dues or charges. The bailiff shall safeguard all data and information obtained in his/her official capacity from any unauthorized access, from publication, and from any illegal use or use for the purpose of any criminal act. The circumstances when such data and information can be contained in any executory document or can be disclosed to third parties are governed by law. The bailiff may request the data by way of electronic means from the authorities and bodies keeping electronic records of such data. The bailiff shall contact the body operating the registry of motor vehicles and road transport and traffic records and the agency for personal data and address records for obtaining the data by way of electronic means only, through the designated IT system. The bailiffs shall handle all data and information obtained in the course of their proceedings in an official capacity as strictly confidential; this obligation shall remain in effect following termination of their activities as bailiffs. This provision shall apply to all bailiffs and other employees working in a bailiff's office. The head of the administrative department of the Association shall have powers to exempt independent court bailiffs.

Under Hungarian legislation, the debtor is not obligated to declare his/her assets as part of the enforcement process.

PART II: ORGANIZATION OF ENFORCEMENT

II.1 The status of the judicial officer

An independent judicial officer shall be appointed by the minister for a term of seven years, at the latest until reaching sixty-five years of age, for a specific judicial district under a specific district court. The judicial district and the area of jurisdiction of a bailiff shall be the same as that of the district court under which he/she is appointed. The cases in progress in a specific judicial district shall be handled by the bailiff having jurisdiction for the county in question; the cases in progress in Budapest and in Pest County shall be handled by the bailiff having jurisdiction for Budapest and Pest County. If an enforcement procedure initiated in a specific district involves the attachment of an immovable property, the bailiff having jurisdiction for that district shall implement



the procedure throughout the entire country.

A bailiff shall not have competence in a matter in which he/she could not act as judge in accordance with the provisions of the CPC pertaining to the exclusion of judges. If the bailiff has him/herself reported the grounds for his/her exclusion, or otherwise consents to his/her disqualification, the decision for exclusion or for the appointment of a replacement lies with the head of the administrative department of the Association. If according to the head of the administrative department of the Association there are no grounds for exclusion, or the grounds for exclusion was not reported by the bailiff, and he/she is not in agreement with his/her exclusion, the court responsible for enforcement shall decide upon the exclusion.

A deontology code is drawn up by the Association of Bailiffs and contains the Code of Conduct of judicial officers vis-à-vis the parties in the enforcement proceedings, such as, for example, respect of the holder's right of disposal, the requirement of a fair trial, the right to have proceedings completed within a reasonable time. The deontological code also states that the bailiff must behave in his/her private life in a way worthy of their profession. The Code defines the bailiffs' relationship with the Association, the courts / authorities and their own staff.

Disciplinary responsibility is dealt with in chapter XXII. of Act LIII. of 1994 on Judicial Enforcement, which defines what constitutes a disciplinary offense. Persons commit a disciplinary offense:

- a. For any breach or omission of their professional obligations defined in the Act LII. of 1994 on Judicial Enforcement or in other legislation; or
- b. For any violation of the code of conduct, hence undermining public confidence in their official status, or diminishing the reputation of the profession.
- c. Independent court bailiffs, substitute independent court bailiffs and independent bailiff assistants shall be guilty of professional misconduct also if they engage in any conduct that constitutes a serious violation of the National Order's directive.

A bailiff found guilty of professional misconduct can be subject to any of the following sanctions: a) warning; b) reprimand; c) ban from office for a specific period of time in the future; d) deprivation from Association office; e) fine of up to 5,000,000 forints; f) disbarment. The disciplinary cases of persons under arraignment shall be heard by the disciplinary tribunal of court bailiffs. The *Bírósági Végrehajtói Fegyelmi Bíróság* (Court Bailiff Disciplinary Tribunal) attached to the *Budapest Környéki Törvényszék* (General Court of Greater Metropolitan Budapest) functions as the disciplinary tribunal of the first instance. The *Bírósági Végrehajtói Fegyelmi Bíróság* attached to the Curia shall function as the disciplinary tribunal of second instance. The Association's Executive Board shall delegate twenty bailiffs to the disciplinary tribunal of first instance, and three bailiffs to the disciplinary tribunal of second instance to serve as investigating officers for four-year terms.

The *Országos Bírói Tanács* shall - on a recommendation by the general courts, the high courts of appeal and the President of the Curia - delegate among the judges, thirty



judges to the disciplinary tribunal of the first instance, and ten judges for the disciplinary tribunal of the second instance for four-year terms. The chairmen and deputy chairmen of the disciplinary tribunals shall be appointed by the Országos Bírói Tanács among the disciplinary arbitrators. In the event of an allegation of professional misconduct the Minister, the president judge of the general court or the head of the administrative department of the Association shall file charges with the Chairman of the disciplinary tribunal of first instance.

II.2 Supervision over enforcement

Detailed rules for conducting investigations to verify the administration, office functions and conduct of independent judicial officers are set forth in Decree 25/2015. (II. 25.). The Office of the Association of Bailiffs acts independently in controlling the administration, office operation and conduct of the bailiffs. At least 2 inspectors must be assigned to conduct each inspection. An inspector is a full-time or part-time employee of the Hungarian Bailiff's Association, who is responsible for overseeing the administration, office functions and conduct of independent judicial officers in their legal relationships. Inspections shall be carried out in accordance with the **Bailiffs Inspection Handbook**¹².

The Office of the Association of Bailiffs carries out a) comprehensive examination, b) extraordinary examination, c) target examination and d) post-control examination. The purpose of the **comprehensive investigation** is to determine whether the audited judicial officer is acting in accordance with the applicable law and the guidelines of the Association, and whether the financial accounts of enforcement measures are properly accounted for. The comprehensive examination shall be carried out one year after the date of appointment of the bailiff and thereafter at least every four years during the service of the bailiff. In the event of a serious or systematic violation of the law or of a violation of the Association's guidelines, the president judge of the general court or the head of the administrative department of the Association shall may order **extraordinary investigations** of the bailiff's activities. Some of the activities of the bailiffs may be subject to **target examination** on the basis of proposals made by the Minister in drawing up the annual control plan. In order to follow up the action taken on the recommendations of the audits, the supervisor may order a **post-control examination**. The purpose of the post-control examination is to obtain assurance that the tasks set out in the action plan have been carried out and that the risk identified has in fact been eliminated or fallen below the level of tolerable risk. Both judicial officers and substitute bailiffs may be involved in the examination. If the bailiff is not present or leaves the scene, the investigation shall not be impeded.

II.3 Access to the premises

If necessary, the judicial officer may open the judgment debtor's locked residence, other place of dwelling, the entrance leading thereto, as well as the judgment debtor's furniture and other movable property. If such process is not attended by the judgment debtor or his/her family member of legal age, a witness shall be summoned. If opening

¹² Available on: http://mbvk.hu/letoltesek-web/vegrehajtok_ellenorzesenek_kezikonyve201705.pdf



the residence or dwelling is only possible by removing the lock or the latch, the bailiff shall deposit the key of the new lock or latch at the local police station from where it can be picked up by the judgment debtor or by his/her family member of legal age. If the residence or dwelling of the judgment debtor has been sealed by the authorities, the bailiff shall make arrangements with such authority for carrying out the enforcement. In case of any resistance against the bailiff's actions, the bailiff shall inform the person resisting as to the procedure applicable in the event of resistance and on the ensuing consequences, and shall contact directly the nearest local police precinct of jurisdiction to carry out routine police duties, which shall lend immediate assistance for the enforcement procedure in order to end such resistance, and shall remain to do so until the procedure is completed.

II.4 Obstructing the judicial officer from carrying out enforcement

The court authorizing enforcement shall fine the judgment debtor or the person or organization obliged to participate in the enforcement procedure for contempt, for failure to satisfy the obligations prescribed by law in connection with enforcement, or for engaging in any conduct aiming to obstruct the authority carrying out the enforcement procedure. The fine for contempt may not exceed the enforceable amount. No fine for contempt may be imposed for the sole reason of the judgment debtor's failure to comply with his/her obligations.

If the bailiff receives information concerning any potential grounds for fine for contempt, he/she shall forthwith summon the offender to perform his/her obligations or to cease the conduct, or stand to receive the fine. The bailiff shall make out such summons in writing, and if it brings no result, he/she shall forward the necessary documents to the court to impose the fine for contempt. Upon receipt of such documents, the court shall rule the case without delay, and shall deliver its ruling to the bailiff and to the offender, if the fine is imposed, or only to the bailiff, if the motion is denied.

In case of surrender of a child, the bailiff shall carry out the procedure for having the child surrendered at the residence of the obligor - or if the child is not there, at the residence of the child - with assistance by the police and the custody office.

II.5 Time of enforcement

Acts of enforcement may be performed on **any day, with the exception of Sundays and legal holidays, between 6.00 AM and 10.00 PM.**

The bailiff may proceed on a legal holiday, or before 6.00 AM and after 10.00 PM only if the **president judge of the court of origin for authorizing enforcement has given permission to this effect in writing.**

II.6 Mediation

In Hungary, the judicial officer cannot exercise the activity of mediation.

PART III: ENFORCEMENT PROCEDURES

III.1 Initiation and end of the enforcement procedure



The court shall issue an enforcement order upon request by the judgment creditor. When filing a petition for enforcement, the judgment creditor shall disclose, depending on the circumstances of the case, the judgment debtor's domicile, workplace or registered address, place of business and the venue where judgment debtor's enforceable assets are located; at least one item from the data listed in this paragraph shall be disclosed.

A petition for enforcement shall consist of a properly completed form to be submitted in the number of copies requested for the issue of an enforcement order.

Upon a petition presented verbally the court shall make out a written enforcement order by which to proceed.

Petition for enforcement in cases falling within the powers of independent court bailiffs may be submitted directly to the competent bailiff. In this case the bailiff fills out the enforcement order form and forwards it to the court having jurisdiction to order judicial enforcement.

The enforcement order may be issued if the writ of execution:

- a) contains an obligation (ruling against the judgment debtor);
- b) is final, definitive or is subject to preliminary enforcement, and if the resolution of the public prosecutor's office and/or the investigating authority is not subject to further remedy; and
- c) the deadline of performance has expired.

A certificate of enforcement shall be issued by any notary public based on a resolution adopted by a notary public for the plaintiff, as well as on the basis of a settlement approved by a notary public having the same effect as a court-approved settlement. The notary drawing up the document shall affix an enforcement clause on a notarial document, if it contains:

- a) a commitment for performance and consideration, or a unilateral commitment;
- b) the names of the obligee and the obligor;
- c) the subject matter, quantity (amount) and legal grounds of the obligation;
- d) the manner and deadline of performance.

In lieu of a certificate of enforcement, the relevant court of jurisdiction can issue an earnings withholding order for claims which are to be satisfied exclusively from the judgment debtor's wages.

At the lien holder's request, the court shall append an enforcement clause to the authentic instrument on a contract of pledge, and order the enforcement of a pecuniary claim secured by a lien by the sale of the pledged goods by the simplified enforcement procedure if the lien holder has agreed with the lienor in writing before the right to satisfaction has opened - by establishing the lowest sale price or a formula for calculating the sale price - regarding the sale of pledged goods by the simplified enforcement procedure.



The judgment creditor shall, within the framework of this Act, have the privilege to specify the type of property of the judgment debtor from which to secure enforcement of his/her claim.

For the purpose of proportionate and/or gradual application of coercive enforcement, the court may deviate from the disposition of the judgment creditor in the interest of the judgment debtor.

III.1.1 Termination of enforcement

The court of origin for authorizing enforcement shall terminate or limit the enforcement procedure by decree, if:

- a) so requested by the judgment creditor and the termination or limitation does not injure the rights of another party;
- b) so prescribed in specific other legislation.

The court responsible for enforcement shall terminate or limit the enforcement procedure by way of a ruling if it found, on the basis of an authentic instrument, that the decision to be enforced has been withdrawn or reversed by a final decision, or by definitive court decision in criminal proceedings, or a resolution of the public prosecutor's office and/or the investigating authority that is not subject to further remedy, or that the enforceable decision was abolished, or it has found, on the basis of a final court decision, that the claim to be enforced under a document with an enforcement clause, or the underlying legal relationship had not validly been established in part or in whole.

The court of origin for ordering enforcement may order the withdrawal of a certificate of enforcement or the writ of execution by way of a ruling upon the request of either party on the basis of the bailiff's report or on its own initiative.

III.2 Enforcement against movable assets to settle pecuniary claims

III.2.1 General and inventory

If it is apparent that a judgment concerning a financial claim cannot be enforced within a relatively short period by garnishment of wages or attachment of sums carried by a payment service provider, any property of the judgment debtor that can be seized may be subjected to enforcement.

If a debtor has not voluntarily performed his/her obligation as indicated in the enforcement order, the bailiff shall draw up a seizure report listing the judgment debtor's movable property for the purposes of seizure.

Seizure of movable property shall take place within thirty days after the costs of the enforcement procedure are advanced. The bailiff, if personally serving the enforcement order on the judgment debtor, shall immediately effect seizure of movable property in the absence of voluntary performance.

If the enforcement order has been served by mail, seizure of movable property shall be effected within forty-five days of delivery.

In the course of the seizure process the bailiff shall summon the judgment debtor to name his/her property that is subject to any lien. If the enforcement order is delivered by mail, the bailiff shall concurrently summon the judgment debtor to provide a statement within fifteen days of delivery of the enforcement order in which to declare the liens filed against any of his/her property.

Seizure shall be performed, if possible, in the presence of the judgment debtor or his/her representative, or in the presence of a family member of legal age living in the same household in the absence of the aforementioned.

Movable property in the judgment debtor's possession or custody or which is evidently owned by the debtor may be seized.

Movable property in the possession or custody of the debtor, which is evidently not owned by the latter as evidenced by some affixed mark or sign or some other circumstance, shall not be seized. The property of the spouse who is not affected by the enforcement and provides indisputable evidence that the property in question is part of his/her individual estate and not of community of property shall not be seized. If more than one piece of personal property is involved, the sequence of seizure shall be established by the bailiff. The bailiff shall continue the seizure process until the enforceable claim is fully satisfied, including all associated costs, such as the estimated costs of the enforcement procedure.

III.2.2 Appraisal

For the purposes of seizure, the judicial officer shall establish the value of seized movable property by appraisal. The bailiff shall appraise the value of property based on its market value. If the parties agreed upon the appraised value, such value shall be authoritative. Upon request by either party, the bailiff shall employ an expert appraiser during seizure. Following the conclusion of seizure, the bailiff may amend the appraised value with the expert appraiser also participating, if so requested by either party within eight days of delivery of the seizure report.

The bailiff shall take measures without delay for the sale of seized property after thirty days following the date of seizure or the date of receipt of information from the records of watercraft and aircraft, the lien records and the collateral register. The bailiff shall set the date of sale for a time which is most practical given all applicable circumstances.

Perishable things shall be sold immediately following seizure.

The bailiff shall proceed to sell perishable things without auction, but subject to the provisions of auction sale if expressly requested by the parties, and if the buyer and the purchase price is specified. If a perishable thing cannot be sold without auction, the bailiff shall sell it to a vendor whose profile includes the marketing of such things, or in the nearest marketplace, fair or other retail facility of the like, designated by the local authorities, according to the regulations governing the sale of merchandise on markets and fairs, and in due observation of the provisions on the sale of movable properties. In this case the bailiff is not required to announce the sale, but shall publish



it in a manner which is most practical given all applicable circumstances.

III.2.3 Auctions

Auctions may be held in the following places: a) in court auction halls; b) in court buildings; c) in the buildings of the village, town, Budapest district governments or of the City of Budapest, or in the premises designated by the notary of the aforementioned local governments or by the Notary of the City of Budapest of the aforementioned local governments; d) at the judgment debtors' residence; e) at the place of seizure; f) at the place where the movable property is held in custody; g) at other places designated by the bailiff.

Auction notices shall be delivered: a) to the parties; b) to the village, town, Budapest district notaries of competence for the place of the auction.

Auction notices shall be posted: a) on the bulletin board of the court; b) on the bulletin board of the court auction hall; c) on the bulletin board of the village, town, Budapest district mayor's office competent for the place of the auction, or on the bulletin board of the Office of the Mayor of Budapest.

Auction notices shall be left posted on the bulletin board for no less than fifteen days before the auction, until the fifth day preceding the auction.

The following shall not be authorized to bid at the auction neither in person nor through an authorized representative or proxy, may not represent bidders, and may not acquire the asset directly or indirectly by way of auction: a) bailiffs, substitute bailiffs, bailiff assistants, other employees of bailiffs, bailiffs' offices, members or employees of bailiffs' offices; b) any legal person or business association in which either of the persons or organizations referred to in paragraph a) have majority control; c) close relatives and domestic partners of acting bailiffs, substitute bailiffs, members of bailiffs' offices and employees of bailiffs and bailiffs' offices; d) staff members of the court responsible for enforcement; and e) the judgment debtor.

A judgment debtor may decide the sequence in which to auction off movable property. If the judgment debtor fails to do so the property shall be auctioned off in the sequence indicated in the seizure report. The auction shall begin by the bailiff announcing to the bidders the appraised value (reserve price) of the article(s) and calling upon the bidders to quote their bids. A bid shall be considered valid if it exceeds the offer previously quoted by at least the amount of the bidding threshold. If the highest price offered does not reach the reserve price, it shall be gradually lowered to 35 per cent of the appraised value. The auction shall be continued as long as bids are being entered. If there are no further bids, the bailiff, after having announced the highest purchase price three times, shall declare the article sold to the highest bidder. The highest bidder shall immediately pay the full purchase price of the article in cash following conclusion of the auction. In the event of such bidder's failure to comply, the auction of the article shall continue without intermission. The defaulting bidder may not take any further part in the auction. The bailiff shall record the events of the auction in an auction report. A copy of the auction report shall be delivered to the parties, to the auction buyer, to the authority of record in respect of watercrafts or

aircrafts, and, furthermore, to the duties office with the exception of the sale of perishable things. Any property not sold during the first auction shall be sold in a second auction. The bailiff shall schedule the second auction for a date within three months of the first auction which is most practical given all applicable circumstances. The bailiff shall proceed to sell by means of electronic auction: a) at the request of the judgment creditor, any movable property with an estimated value of 100,000 forints or more, if the party seeking enforcement has advanced the costs of transportation and storage; b) any movable property, if safeguarding or storage is provided for; c) business shares; and d) securities, if they are to be sold by auction.

III.2.4 E-auctions

The administrative department of the Association shall operate a non-stop internet-based communication platform for the publication of auction notices relating to movable and immovable properties by way of electronic means and for making bids also by way of electronic means through which users are able to access the records of electronic auction notices, the electronic register of bidders and the bidding log. Admission into the electronic auctions operating system is permitted only to users listed in the register of bidders, for which they are required to enter their user name and password created and activated for this purpose. The bailiff functioning as the auctioneer shall, upon request, activate the user name and password that is required of bidders to access the electronic auctions operating system, if the person or body listed in the register of bidders: a) has provided an auction deposit of ten per cent of the appraised value to the bailiff in cash or by way of credit transfer, and it was credited onto the bailiff's deposit account; b) is not banned from the auction. The auction buyer of a movable property is the bidder who quoted the offer last published in the bidding log.

III.2.5 Sale of movable property without auction

Upon the parties' request the bailiff shall proceed to sell the movable property without auction, but subject to the provisions of auction sale, to the buyer and at the appraised value designated by the parties. If the proceeds from the sale defined in this way is likely to be sufficient to satisfy the claims of all judgment creditors, including the lien holders who have become involved in the procedure already in progress, the consent of judgment creditors is not required for sale without auction. In this case the bailiff shall sell the movable property to the person designated by the judgment debtor at the value appraised by the judgment debtor. If the sale of movable property has failed, the judgment creditor may purchase such property for 35 per cent of the appraised value.

III.3 Attachment on the bank account of the debtor

The deposits made by a judgment debtor with a payment service provider may be subject to attachment without limitations, except for the sums of money of natural persons which are to be attached as governed under the two following subsections:

- From the sums of money deposited by natural persons with payment service providers the part that is in excess of four times the amount of the minimum old age



pension may be subject to attachment without limitation; from the rest of such deposits fifty per cent of the part that is between the minimum old age pension and four times the amount of the minimum old age pension may be subject to attachment.

- From the sums of money deposited by natural persons with payment service providers the part up to the amount of the minimum old age pension shall be exempt from attachment. If the subject of enforcement is to collect child support or childbirth-related costs, fifty per cent of the above-specified amount may also be subject to attachment. If the funds on the payment account indicated in the writ of transfer or in the official transfer order submitted by the bailiff are insufficient, whether in part or in full, to cover the amount of judgment, the payment service provider shall include the judgment debtor's other accounts it administers on the basis of payment account contract, deposit account or savings deposit account contract inasmuch as necessary to perform payment.

In respect of the account that is held by more than one person at a payment service provider, it may be subject to attachment in whole regardless of which account holder is named the judgment debtor. The ruling of the court issuing the writ of attachment shall be satisfied in forints regardless of the type of currency therein specified, as translated by the foreign exchange buying rate of the payment service provider effective on the day of performance.

Banks and savings cooperatives are required to maintain electronic communications with a view to receiving bailiffs' requests for tracing accounts carried by any payment service provider on the judgment debtor's behalf, and for replying to such requests of bailiffs.

Upon the judgment creditor's request, the court of jurisdiction for issuing a certificate of enforcement or an enforcement clause shall, for enforcement of a monetary claim, issue a writ of transfer for the attachment of the judgment debtor's funds administered by the payment service provider.

In the writ of transfer the court shall instruct the payment service provider where the judgment debtor's funds are deposited to pay - from the balance of the payment account above the exempted amount - the amount of judgment indicated in the notice to the judgment creditor, or to have such amount transferred to the payment account designated by the judgment creditor. The court shall issue the writ of transfer upon the payment account indicated in the petition for enforcement, and carried by the payment service provider, and shall have the ruling delivered to the payment service provider and to the parties. If the debtor indicates in the petition for enforcement payment accounts carried by more than one payment service provider, the court shall issue the writ of transfer upon the first payment account indicated.

The court shall send the writ of transfer to the payment service provider with an order to withhold the amount of judgment indicated therein, and - unless otherwise instructed by the court within forty-five days from the time of delivery of the ruling - make the amount available or transfer it to the judgment creditor. If the writ of transfer failed to produce satisfaction in full due to the lack of sufficient coverage,



another type of enforcement order may be issued if the judgment creditor is able to verify the sum the payment service provider of the judgment debtor has satisfied upon the writ of transfer.

The bailiff shall effect the attachment of the judgment debtor's funds administered by a payment service provider by submitting an official transfer order as payable to the bailiff's deposit account. Upon receipt of such order the debtor's payment service provider shall comply with the bailiff's instructions and transfer the amount indicated therein to the bailiff's deposit account from the balance of the payment account above the exempted amount. If the funds on the account against which the official transfer order is submitted are insufficient to cover the amount claimed in full, the bailiff shall resubmit the order, if so requested by the judgment creditor.

If the enforcement order contains the particulars of the judgment debtor's current account, or if the funds on the judgment debtor's current accounts can be attached and the particulars of the judgment debtor's current account are otherwise available, the bailiff shall issue the order within two working days from the time of receipt of the enforcement order, and shall deliver the enforcement order within five working days by post.

III.4 Enforcement against savings deposits and current accounts

Deposits and savings deposits placed with a financial institution, as well as the savings book or other document issued in proof of such may be subject to attachment without any limitation.

III.5 Enforcement on immovable property

Any immovable property owned by a debtor may be subjected to enforcement irrespective of the nature of the immovable property, its agricultural zoning, any right or prohibition asserted upon the immovable property and any fact recorded in the real estate register in connection with the property in question.

If the enforcement order contains the particulars of the immovable property, the bailiff shall effect the seizure of such property within three working days following receipt of prepayment of the costs of the enforcement procedure, including payment of the administrative service fee in real estate registration proceedings. If the judgment creditor has requested in his/her application for enforcement to have the judgment debtor's property included in the enforcement as well, or did not exclude the judgment debtor's property from enforcement, but did not supply the property's particulars in the application, the bailiff shall proceed to have the property seized within three working days following receipt of prepayment of the costs of the enforcement procedure and of the particulars of the property, and after payment of the administrative service fee in real estate registration proceedings.

The bailiff must obtain the data related to the immovable property from the authentic Land Registry. Such data may also be requested electronically. The judicial officer may also obtain a non-authentic copy of the title deed, or, using the debtor's personal data, can request the data related to the immovable properties in his/her ownership via

computer nationwide.

In respect of the seizure of a real estate property, the bailiff shall request the real estate supervisory authority to record the right of enforcement in the real estate register and shall concurrently advise the real estate supervisory authority to convey its resolution on the registration of the right of enforcement to the bailiff in notice concerning the names and addresses of the persons holding some right in the property in question registered in the real estate register, and also on the legal title and duration of any land use registered in the land use register in connection with the seized real estate property. Seizure shall be carried out upon registration of the right of enforcement.

The real estate supervisory authority shall register the right of enforcement, including any preceding applications, immediately. The real estate supervisory authority shall convey its resolution on the registration of the right of enforcement to the bailiff, to the parties and to other persons holding some right in the property in question registered in the real estate register. The bailiff shall notify the seizure of a residential property within fifteen days from the time of receipt of the resolution on registration of the right of enforcement to the notary of the municipal government where the property is located.

The bailiff may proceed to take action at the judgment creditor's request for the sale of a seized real estate property if collection of the claim cannot be achieved otherwise within a relatively short period of time, and only after forty-five days following the date when the bailiff received the resolution on the registration of the right of enforcement, or after sixty days following the date of dispatch of notification to the notary. The bailiff shall publish the notice for the auction of a real estate property in the register of electronic auction notices within thirty days after its value is appraised, or upon receipt of a definitive court decision adopted in connection with the appraised value of the property if a demurrer of enforcement was lodged.

Before the sale of immovable property, the bailiff shall establish its appraised value, both vacant and occupied, in consideration of an official tax and value certificate issued within six months to date, or, if so requested by either party, based on the expert assessment of a forensic expert. The bailiff shall notify the appraised value of the immovable property to the parties and to other persons holding some right in the property in question registered in the real estate register, and if the land is sold, to the National Land Fund as well. At the time of announcing the appraised value the bailiff shall inform the parties concerning the option and the conditions of payment facilities. If a demurrer of enforcement is filed within fifteen days of such announcement, the court shall establish the appraised value thereof, with assistance by an expert appraiser if necessary.

In respect of residential properties, bids are accepted if made in an amount covering at least 70 per cent of the reserve price - or at least the reserve price in the case of recovery of claims on the basis of consumer contracts - if it is the only residential property of the judgment debtor, it is his/her residence and it has been for six months prior to commencement of the enforcement procedure. If the auction buyer has paid



the purchase price in full, the bailiff, thirty days after the date of auction, shall transfer the immovable property purchased to the auction buyer. The judgment debtor and the persons living in the immovable property by right of the judgment debtor shall vacate the premises within thirty days from the auction, or if the bailiff has allowed any respite for payment of the purchase price, until such deadline, or within fifteen days of the date of the definitive date of a resolution passed in conclusion of action for legal remedy, when applicable, and shall remove all their possessions and otherwise allow the bailiff to turn the property over to the auction buyer. If the premises are not vacated by the deadlines specified, the auction buyer may request to have the property evacuated before the fifteenth day following the prescribed time limit for vacancy. A second auction shall be held within 3 months of having the first auction declared unsuccessful, at a time scheduled by the bailiff.

Upon the parties' request the bailiff shall proceed to sell the immovable property without auction, but subject to the provisions of auction sale, to the buyer at the appraised value designated by parties. If the proceeds from the sale defined as way are likely to be sufficient to satisfy the claims of all judgment creditors, including the lien holders who have become involved in the procedure already in progress, and if no other party holds any right registered in real estate register to the property in question, the consent of judgment creditors is not required for sale without auction. In this case the bailiff shall sell the immovable property to the person designated by the judgment debtor at the value appraised by the judgment debtor. An immovable property may be sold without an auction before the commencement of the auction.

In the electronic bidding phase of an auction for an immovable property, bidders must register with the auctioneer before placing bids. The bidder registration fee is HUF 6,000. The fee for modifying a registration is HUF 3,000, while deletion is free of charge. Persons wishing to place a bid on the immovable must deposit an advance at least 10% of the property's estimated value in the judicial officer's escrow account before making a bid. The deposit of the advance in escrow may be made by bank transfer, in which case the amount of the advance must be transferred such that it is deposited into the judicial officer's escrow account prior to the auction. In the latter case, the depositor may place a bid if he/she presents the judicial officer with a bank record of the transfer having been debited before placing a bid, and gives the judicial officer a copy of this document.

III.6 Enforcement against wages and other permanent pecuniary income

In lieu of issuing a certificate of enforcement, the relevant court of jurisdiction can issue an earnings withholding order for claims which are to be satisfied exclusively from the judgment debtor's wages. In the earnings withholding order the court shall instruct the employer of the judgment debtor, or the body or party regularly or periodically disbursing any payment of emolument, salary or remuneration for the performance of work to the judgment debtor (hereinafter referred to as „employer”) to withhold the amount indicated in the order from the debtor's wages, without waiting for the order to become definitive, and to pay such amount to the judgment creditor without delay. The court shall serve the earnings withholding order to the



employer and the parties. In lieu of issuing a writ of execution, the relevant court of jurisdiction shall issue an earnings withholding order for claims which are to be satisfied exclusively from the judgment debtor's wages.

A claim shall be satisfied exclusively by **attachment of wages**, if a) so requested by the judgment creditor, b) it is for support or some other claim to be paid in installments, and the part of the wages which may be subject to attachment covers the amount of judgment.

III.6.1 Direct judicial notice

The court, in its judgment ordering a person receiving wages to pay support, shall simultaneously notify the employer to withhold the judgment amount and to pay it to the beneficiary thereof.

If the judgment creditor (rightsholder) reported that the earnings withholding order or direct notice did not result in satisfaction of the claim and he/she wishes to subject other assets of the judgment debtor to enforcement, the court shall issue the appropriate enforcement order.

III.6.2 Garnishment by the bailiff

In the event that the judgment debtor fails to pay his/her debt to the bailiff in the course of his/her on-site proceedings or within 15 days of the service of the enforcement order by mail, the bailiff shall issue a withholding (garnishment) order from the judgment debtor's wages. In the garnishment order the bailiff shall notify the employer of the judgment debtor to withhold the amount indicated therein and to pay such amount to the garnishor, or, in special cases, to the bailiff's deposit account or to another designated account. The bailiff shall send copies of the garnishment order to the employer and to the parties. The effect of a garnishment order shall continue to apply for withholding the judgment debtor's wages received from a new employer in case of change in the judgment debtor's employment.

Wage garnishment shall be implemented from the base amount remaining after deduction of all taxes (tax advances), health insurance and pension contributions, private pension fund membership dues and other deductions prescribed by law to be withheld from wages. From the amount, after all deductions described, generally no more than 33 per cent, or no more than 50 per cent under special circumstances, may be deducted. The portion of wages paid monthly, which corresponds to the minimum amount of the old age pension, shall be exempt from garnishment. The sequence of claims shall be determined as per the sequence in which the orders of garnishment for such claims (documents for withholding) were received by the employer.

From the wages received on the basis of employment no more than 33 per cent may be withheld. Deduction of no more than 50 per cent may be effected from employee's wages for the following claims: a) support; b) employee's wages from the judgment debtor; c) employee's wages and social security benefits received without entitlement. In case of more than one garnishment orders, the amount withheld may



not exceed 50 per cent of the employee's wages.

It is the obligation of employers to do the following on or before the working day following receipt of the withholding order: a) notify the judgment debtor of the garnishment; b) take measures to have the amount of garnishment deducted from the wages when due (on payday), and have it paid to the garnishor, or, in special cases, into the bailiff's deposit account or to another designated account; c) notify the organ issuing the order regarding any obstruction to implementation.

In the event of violation of the obligation concerning the garnishment of wages, the employer shall be subject to joint and several liability toward the garnishor up to the amount which is not withheld.

III.6.3 Garnishment of pension payments

No more than 33 per cent of the social security pension, benefits provided before the legal age limit, service emoluments, dance artists' annuities and provisional miners' allowance may be withheld. Deduction of no more than 50 per cent may be effected from pension payments for the following claims: a) child support; b) pension received without entitlement. In case of more than one garnishment orders, the amount withheld may not exceed 50 per cent of the pension payments.

III.6.4 Garnishment of health insurance benefits provided in money

No more than 33 per cent may be withheld from compensation and benefit received for accident-related injuries, from sick pay, child-care allowance and infant care benefits, adoption allowance for the following claims: a) child support; b) health insurance benefits received without entitlement.

III.6.5 Garnishment of various child-care benefits

No more than 33 per cent may be withheld from child-care assistance benefits and from child-rearing allowances to recover any child-care assistance benefits, child-raising allowances and maternity support received without entitlement. No more than 33 per cent may be withheld from family allowances to recover any family allowance and maternity support received without entitlement.

III.7 Attachment under the debtor's debtor

If a judgment debtor has an outstanding claim against a third party, or if he/she has concluded a contract with a third party for a future claim, the bailiff shall seize such claim and shall summon the third party to account. The third party shall file a statement within eight days of the service of notice to the bailiff in which he/she shall state a) whether he/she acknowledges the claim or the contract for a future claim, b) the due date of the claim, c) whether anybody has a laid claim to the claim in question, and, if so, on what grounds. The third party may not surrender the claim after the service of notice neither to the judgment debtor nor to any other person, but shall pay the amount of claim to the bailiff's deposit account on or before the date of maturity, or place the subject matter of the claim in court custody. If the third party fails to



acknowledge the claim or the contract therefor, or to file the statement or to effect payment (deposit), the judgment creditor may file for legal action against the third party for the collection of such claim.

III.8 Enforcement against shares

In respect of the seizure of printed securities, the bailiff shall collect the assets seized and deposit them into court custody within 24 hours. As regards the seizure of dematerialized securities, the bailiff shall notify the investment firm administering the securities account of the judgment debtor. Upon receipt of such notice the investment firm shall place the securities in question into a blocked sub-account according to the statutes on securities until further instructions from the bailiff.

Bearer securities or securities otherwise marketed without restrictions shall be handed over by the bailiff for consignment sale to a securities agency or to an investment firm. The investment firm shall transfer the purchase price received, with its commission deducted, to the bailiff's deposit account without delay. If a consignment sale was unsuccessful the investment firm shall offer the securities for repurchase to their issuer. The issuer of securities shall immediately transfer the countervalue of repurchased securities to the bailiff's deposit account. If the aforementioned was unsuccessful, the bailiff shall sell the securities by auction.

The bailiff shall commission an investment firm for the sale of registered securities, securities constituting membership rights or which may otherwise be marketed subject to restrictions. Such agency shall function as an official receiver and shall transfer the proceeds therefrom to the bailiff's deposit account. The principal agent for the sale of dematerialized securities shall be the investment firm of account, or, if this cannot be accomplished, any investment firm may be commissioned.

III.9 Other attachment procedures

III.9.1 Surrender of a child as specific act

In the enforcement order the court shall request the respondent to comply voluntarily within the prescribed time limit, and shall order to obtain surrender of custody of the child with police assistance in the event of non-compliance. The court shall send to the bailiff a copy of the court decision serving as grounds for enforcement, together with the enforcement order.

The bailiff shall make the enforcement order and the copy of the court decision serving as grounds for enforcement available to the guardian authority as well, including a notification for such authority to conduct on-site proceedings, to inform the respondent as to the consequences of failure to comply voluntarily, stressing the importance of protecting the child from having to go through police action regarding custody, and to advise the bailiff on the ensuing results within fifteen days of receipt of the enforcement order. In the event of non-compliance, the bailiff shall schedule the on-site procedure and shall notify the party requesting the enforcement, the representative referred to, the guardian authority and the police. When returning the child, the obligor shall inform the person to whom the child is delivered about the

child's health, and any other information that, if not conveyed, may put the child's life or health in danger. The obligor shall, without undue delay, deliver the child's documents, personal articles, necessary clothing items, instruments essential for regular studies, any medication the child is taking due to sickness or handicap, medical and technical aid to the person to whom the child is delivered.

If the obligor or the child to be returned cannot be found at their registered domicile or habitual residence, or at any other address known to the authorities, the bailiff shall issue a warrant to locate them, or an international warrant where it is deemed necessary.

III.9.2 Enforcement of judgments in lawsuits filed for violations of intellectual rights as special act

If enforcement of a specific act is for the implementation of a judgment passed in a legal action filed for infringement of a patent, a utility model or of the patented topography of micro-electronic semiconductors, infringement of plant variety rights or for any failure of compliance with the obligation of disclosure related to remuneration in connection with plant variety rights under Subsection (3) of Section 109/B of Act XXXIII of 1995 on the Patent Protection of Inventions, for the infringement of a trademark, a geographical indication, a protected design or a supplementary protection certificate, for violation of provisions on the prohibition of unfair and restrictive market practices or for any infringement of copyrights or legitimate interests of business secrecy, the court empowered to issue the certificate of enforcement shall - instead of issuing said certificate - adopt a decision ordering enforcement directly, by which it shall order the obligor to comply without undue delay to its enforcement order, and shall simultaneously specify the amount of financial penalty to be charged for each day of delay, if applicable.

A fine may be imposed between ten thousand to two hundred thousand forints daily. The daily amount of the fine shall be increased on the thirtieth day following the expiry of the deadline for performance and every month thereafter, by doubling the amount of the previous period. The fine shall be payable as of the date of expiry of the deadline for performance until the specific act is carried out and verified, or until the specific act is obtained by coercion.

III.10 Handing over movable assets

If the applicant for enforcement does not take over the debtor's movables and the auction of the movables does not lead to a result, the executor returns them to the debtor. If the debtor does not remove his/her movable property within 30 days of the summons, the bailiff shall cease to keep the movable property further and shall arrange for its destruction or its transfer as waste.

III.11 Enforcement in reinstatement of employee to work

A specialized enforcement procedure for reinstatement of employee to work does not exist in the Hungarian enforcement system.

III.12 Eviction

For the enforcement of an obligation prescribed in a court decision, a court-approved settlement or a document with a writ of execution for the vacating, delivery or use of a dwelling place or non-residential premises (hereinafter referred to as "residential suite") or for upholding the validity of termination by notice, the provisions set for a specific act or a specific conduct, forbearance or discontinuance shall be applied.

Where the judgment creditor is a legal person and an enforcement procedure is initiated on his/her behalf for the evacuation of a residential unit, the bailiff shall, at the request of the natural person required to vacate the residential property, extend the time limit prescribed in the enforcement order for having the premises vacated voluntarily by ninety days, if the obligor has never been fined for contempt previously. The request of the debtor may be presented within fifteen days of receipt of the enforcement order.

If the obligor or his/her representative are not present when the enforcement is carried out, the bailiff shall take an inventory of the articles left in the residential suite which has been ordered to be vacated. Upon placing such articles in another residential suite, a copy of the inventory shall be posted in the other residential suite. If said articles are placed in a residential suite that is occupied solely by the obligor and his/her family, it shall be locked and sealed after the conclusion of enforcement proceedings.

If all things and articles of the obligor could not be placed in the other residential suite, the judgment creditor shall provide for such things and articles to be deposited in a warehouse or any other appropriate facility of the like at the cost and risk of the obligor. The judgment creditor shall be responsible to store such things and articles for thirty days.

The bailiff shall postpone the evacuation of a residential property for a time following the period between 15 November and 30 April if the obligor is a private individual. No postponement shall be allowed for the evacuation of a residential property that was occupied unlawfully, or if the obligor had previously been fined for contempt.

The court shall order the evacuation of *a residential suite occupied unlawfully* by way of a ruling adopted in non-judicial proceedings, and without issuing an enforcement order. An appeal filed against such ruling shall have no suspensory effect. A petition for the evacuation of a residential suite occupied unlawfully shall be submitted with the district court where the property in question is located.

The court shall adopt a ruling within five working days from the date of submission. It contains instructions to the bailiff to take action for the evacuation of the property within three working days after the costs of the enforcement procedure are advanced, and to notify the chief of the competent police department along with the competent child custody office if a minor is involved.

The bailiff shall serve the decree in person in the presence of a police officer or a witness on the person of legal age who stays in the residential property in question, and shall order this person to vacate the premises together with any other persons in the property and to remove all their belongings within two days. If, at the time of the



proceeding, there is no one to be found in the property, other than a minor, the bailiff shall post the court ruling and the report on the on-site proceeding on the entrance door of the residential suite. The bailiff shall inspect performance after two days - by police assistance if necessary - on the site, and shall proceed to have the residential suite vacated. If a minor is involved in the case, a representative of the child custody office shall also attend the on-site procedure. If, at the time of the second proceeding there is no one to be found in the property, other than a minor, the bailiff shall order the things and articles to be removed and deposited into the storage facility designated by the petitioner. The child custody office shall take custody of any persons of minor age in the property and shall place such minor(s) in a temporary residence.

The lessor may request the evacuation within sixty days following the termination of the tenancy contract concluded under the Act on the Protection of the Homes of Natural Persons Defaulting on Their Obligations Stemming from Loan Contracts with respect to the residential property to which the contract pertains.

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

If enforcement is for the performance of a specific act or a specific conduct, forbearance or discontinuance (hereinafter referred to as "specific act"), the court shall issue an enforcement order to order the judgment debtor or the obligor to voluntarily comply within the deadline specified. The bailiff shall serve the enforcement order on the parties by mail. The bailiff shall convey the enforcement order to the judgment creditor including a notice of request for the latter to notify the bailiff regarding performance or the failure of such following the deadline set for voluntary performance.

If the notification of the judgment creditor reveals that the obligor has failed to voluntarily perform the specific act, the bailiff shall carry out an on-site inspection if necessary. In the event of failure of performance, the bailiff shall submit the notification of the judgment creditor along with his/her inspection report without delay to the court of origin for authorizing enforcement.

The court shall determine by way of a ruling the manner of enforcement, such as:

- a) ordering the obligor to pay the cash equivalent to the specific act;
- b) granting authorization to the judgment creditor to perform or to cause the specific act to be performed at the cost and risk of the obligor, and at the same time ordering the obligor to advance the estimated costs of such;
- c) imposing a fine upon the obligor up to 500,000 forints;
- d) enforcing the specific act with police assistance.

III.13.1 Surrender of specific movable property

The enforcement officer shall deliver the enforcement order to the party obliged to surrender specific movable property where such property is located in the presence of the judgment creditor. If the judgment creditor has marked the movable property, the bailiff shall remit it to the judgment creditor. Upon receipt, the judgment creditor



shall diligently safeguard the movable property for fifteen days, or, if notified during such period by the court on any action of replevin, until the conclusion of such action. If the obligor refuses to surrender the movable property that has been marked by the judgment creditor, the bailiff shall request direct police assistance, and shall carry out the enforcement without delay. The procedure shall be carried out irrespective of whether the obligor is present or not. If not present, the enforcement order and the report on the on-site procedure shall be delivered to the obligor by mail.

III.14 Sequestration of goods

If the enforcement order cannot yet be issued for the enforcement of a claim, but the judgment creditor has substantiated that any delay in the enforcement of such claim would put it in jeopardy, the court shall order the following protective measures upon the judgment creditor's request:

- a) pledge of security for money claims; or
- b) sequestration of specific things.

The bailiff shall deliver the writ of sequestration of movable property to the judgment debtor in person, and shall seize the property. Sequestration of movable property may also be effected by impoundment. Perishable things shall be sold upon seizure in case of sequestration. Upon receipt of the writ of sequestration of immovable property, the bailiff shall request the real estate supervisory authority without delay to record the fact of attachment in the real estate register. Upon receipt of the real estate supervisory authority resolution on the registration of attachment, the bailiff shall turn over the immovable property to an official receiver if a) the judgment debtor is unable to operate the immovable property due to an extended absence or to some other reason, or b) the judgment creditor requested an official receiver to be appointed, and this was found substantiated by the bailiff in view of the circumstances of the case. The official receiver shall a) manage the immovable property with due diligence, b) give account on the financial aspects of the immovable property to the bailiff, c) pay the net income of the immovable property to bailiff's deposit account.

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

Resolutions of foreign courts and foreign arbitration tribunals (hereinafter referred to collectively as "foreign resolutions") shall be executed on the basis of law, international convention or reciprocity.

When filing for enforcement, the judgment creditor shall enclose the foreign resolution to be executed, and a Hungarian translation thereof if requested by the court.

In respect of a foreign resolution that may be executed, the court shall adopt a ruling of confirmation of enforcement, in which it shall confirm that it may be executed in accordance with Hungarian law the same way as a decision of a Hungarian court (arbitration court). The ruling adopted, the ruling rejecting the request and the ruling of refusal may be appealed. After the ruling has become final, on the basis of a foreign resolution confirmed for enforcement the court shall issue a certificate of

enforcement, or an enforcement order of the same function.

In the course of enforcement of a foreign resolution the provisions set forth in specific other legislation and in the international conventions shall also be applied, and jurisprudence based on reciprocity shall also be taken into consideration.

PART IV: ENFORCEMENT COSTS

IV.1 The costs of enforcement

Unless otherwise provided by law, the costs of the enforcement procedure shall be advanced by the judgment creditor and borne by the judgment debtor.

By default, enforcement costs are advanced by the person requesting enforcement and paid by the debtor in the event of successful enforcement. Following the registration of the case, the judicial officer will, as a first step, issue a letter of formal notice to the applicant, stating the costs to be paid at the beginning of the proceedings, depending on whether the enforcement proceedings are for the recovery of a pecuniary claim or for the execution of a specific act. The procedure can only be initiated if the person requesting enforcement has complied with the request, and the applicant has paid the amount in the request to the judicial officer's banking account. Failing this, the enforceable document will not be served on the debtor.

The costs of an expert or expert appraiser and the cost of proclamation of the auction shall be advanced by the party requesting such measures. Cost exemption and the right for suspension of payment of costs shall not apply to those costs. Enforcement costs advanced by the state shall be borne by the state if such cannot be recovered. Parties shall deposit the amount of costs payable in advance to the bailiff's settlement account, or hand it directly to the bailiff against a receipt.

If in the course of the enforcement procedure the judgment debtor has paid the amount awarded to the judgment creditor, it is the judgment creditor's responsibility to settle the costs of the enforcement procedure. This includes any unpaid dues, the costs advanced by the state and the flat-rate charge for the fee payable to witnesses, all of which are payable to the appropriate account. The sum payable to the independent court bailiff for carrying out the enforcement procedure shall be paid to the bailiff's settlement account, or handed directly to the bailiff against a receipt. In the event of failure to comply with this provision the judgment debtor and the judgment creditor shall be subject to joint and several liability for payment.

When the subject of the enforcement procedure is child support, the bailiff shall proceed regardless of whether any advance payment is received or not.

The Association receives a **standard cost allowance** having regard to the enforcement cases under the jurisdiction of independent court bailiffs from which to finance the operations of the independent court bailiff organization, including administration and registration activities, and to cover the costs of other duties rendered under the administrative department of the Association's competence. The Ministry directed by the Minister in charge of the judicial system shall be entitled to receive a standard cost allowance for supervising the independent court bailiff organization and for the



performance of other public tasks delegated under the Minister's powers and responsibilities.

The independent court bailiff shall also collect the standard cost allowance from the judgment debtor together with the claim and with the costs of the enforcement procedure, and shall pay it to the administrative department of the Association whether in cash or by transfer. Of the standard cost allowance, 35 per cent shall constitute revenue for the Ministry, and it shall be transferred to the Ministry by the administrative department of the Association.

In accordance with paragraph 34 / A (3) of Act LIII of 1994 on Judicial Enforcement the average cost allowance shall be 5,000 forints for each case where the enforceable amount does not exceed 500,000 forints, or 1 per cent if the enforceable amount is above 500,000 forints¹³.

From the sum recovered by the enforcement procedure, first and foremost the costs of the enforcement procedure - meaning the costs of filing, ordering and implementation of the proceeding - shall be satisfied, including in principle the unpaid enforcement duty and the expense advanced by the body so required.

IV.1.1 Remuneration of bailiffs

Bailiffs are entitled to a fee and reimbursement of expenses established in accordance with the bailiff's tariff schedule as set forth in a legal regulation. The fees of bailiffs shall consist of service charges and commissions. Bailiffs shall also be entitled to reimbursement of expenses incurred in connection with the given procedure.

Service charges shall be consistent with the enforceable amount or with the service time of the procedure, and with the acts of enforcement actually performed.

Bailiffs shall be entitled to a commission when the enforcement procedure is successful, whether in part or entirely, regardless of whether performance was made to the bailiff or to the judgment creditor in money or in kind.

The bill of a bailiff on his/her fees and expenses, including the advice for advance payment for costs of the enforcement procedure, shall be subject to legal remedy.

Copies of documents of an enforcement procedure may be provided by the bailiff to persons authorized to receive such information for a fee payable to the bailiff in the amount defined in specific other legislation; such fee shall not be included in the costs of the enforcement procedure.

The values of the aforementioned costs, fees etc. are regulated in **Decree 35/2015, issued by the Ministry of Justice on enforcement fees.**

IV.1.2 Service charges

Service charges can be calculated in two ways: in case of **pecuniary claims**, the amount of this fee is inversely proportional to the value of the claim:

¹³ <https://net.jogtar.hu/jogszabaly?docid=99400053.tv>



Value of the claim	Service charge
1-100 000 HUF	9000 HUF
100 001 – 1 000 000 HUF	9000 HUF + 3 % of the part of the claim which is above 100 000 HUF*
1 000 001 – 5 000 000 HUF	36 000 HUF + 2 % of the part of the claim which is above 1 000 000 HUF
5 000 001 – 10 000 000 HUF	116 000 HUF + 1 % of the part of the claim which is above 5 000 000 HUF
10 000 001 and above	166 000 HUF + 0,5 % of the part of the claim which is above 10 000 000 HUF

If enforcement is for **the performance of a specific act**, enforcement fee is based on the amount of time spent; the fee is 15 000 HUF.

The cost of **servicing a document** is 7500 HUF.

IV.1.3 Costs to be paid at the beginning of the procedure

At the beginning of the enforcement procedure the service charges and 50 % of the cost allowance are advanced for the judicial officer. This sum is at least 9 000 HUF but no more than 85 000 HUF. In the case of enforcement of a specific act, this sum is 18 000 HUF.

IV.1.4 Enforcement commission

If enforcement is successful, judicial officers are entitled to **enforcement commission** as well, which is inversely proportional to the value of the collected claim.

Value of the claim collected	Enforcement commission
1 – 5 000 000 HUF	8 %
5 000 001 – 10 000 000 HUF	400 000 HUF and 6 % of the part of the collected sum which is above 5 000 000 HUF
10 000 001 and above	700 000 HUF and 3 % of the part of the collected sum which is above 10 000 000 HUF

Registering at the electronic auctioning system costs 6000 HUF, while modification of data in this database costs 3000 HUF.

PART V: LINKS, LITERATURE AND SOURCES

Act LIII of 1994 on Judicial Enforcement, available on:
<https://uj.jogtar.hu/#doc/db/62/id/99400053.TV/ts/20200301/>

Decree 35/2015, issued by the Ministry of Justice on Enforcement Fees, available on:



<https://net.iogtar.hu/jogszabaly?docid=A1500035.IM>

250/2004. (VIII. 27.) Government Decree on the detailed procedural rules of service of documents by judicial officers, available on:

<https://net.iogtar.hu/jogszabaly?docid=A0400250.KOR>

