



Poland

Narrative National Report

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TABLE OF ABBREVIATIONS		
1	Law on Enforcement agents	LEA
2	Law on Enforcement agent's costs	LEAC
3	Law on Enforcement agents and enforcement	LEAE
4	Code of Civil Procedure	CCP
5	Court fees in civil proceedings	LCCC
6	Bankruptcy Law	BL
7	Labour Code	LC
8	Banking Law	BL
9	Civil Code	CC
10	Commercial Companies Code	CCC
11	Criminal Procedure Code	CPC
12	Penal Code	PC
13	European Court of Human Rights	ECHR
14	European Union	EU

PART I: LEGAL FRAMEWORK

I.1 Legislation affecting civil enforcement

I.1.1 Enforcement Law

I.1.1.1 Enforcement agents (Law of 22 March 2018, LEA)¹

This legal act lays down the basic rules and regulations concerning enforcement agents' status, statutory guarantees for enforcement agents, their rights and duties, the scope of enforcement agents' functions, their competences, rules on how the profession is to be exercised, rules on the organization of the profession of enforcement agent, rules on how enforcement agents' activities are to be monitored, disciplinary rules applying to enforcement agents, monitoring and supervision rules, rules on running an enforcement agent's office, organisation and the scope of the professional body's functions, rights and duties.

I.1.1.2 Enforcement agents' costs (Law of 28 February 2018, LEAC,² Law of 29 August 1997, LEAE³)

The current act of 28 February 2018 specifies the amount of enforcement agents' costs and the rules for collecting costs and the procedure to be followed in matters relating to these costs.

In 2018, the year of the reform of the enforcement system, two separate laws concerning separately enforcement costs and enforcement agent status, professional body organisation, supervision and disciplinary rules, were introduced. LEAE costs regulation, which was repealed by LEA, continues to apply to cases initiated and unfinished before January 2019.

I.1.2 Enforcement Procedure Law

I.1.2.1 Code of Civil Procedure (Law of 17 November 1964, CCP)⁴

This legal act lays down the basic rules and regulations concerning civil and enforcement procedure, the bodies running the enforcement procedure (the judicial and the enforcement agent), rules on how enforcement agents' and court's activities are to be performed and controlled, legal definitions of

¹ Law of 22 March 2018, entered into force on 1 January 2019, LEA, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000771/U/D20180771Lj.pdf>

² Law of 28 February 2018, entered into force on 1 January 2019, LEAC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19971330882/U/D19970882Lj.pdf>

³ Law of 29 August 1997, repealed by LEA, LEAE, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000770/U/D20180770Lj.pdf>

⁴ Law of 17 November 1964, CCP, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19640430296/U/D19640296Lj.pdf>. See art. 139¹ (Obligation of the plaintiff to serve the defendant through an enforcement agent, detailed by the Regulation of the Minister of Justice of 12 October 2010 on the detailed procedure and manner of service of court documents in civil proceedings), art. 758 and following strictly concerning the enforcement procedure rules.



enforcement acts, persons directly or indirectly involved in the enforcement procedure (creditor, debtor, defendant, claimant, stakeholders) as well as their rights and obligations during the enforcement procedure, judicial control of the enforcement activities and protective and enforcement measures. Detailed regulation on the service of documents is included in the Regulation of the Minister of Justice of 12 October 2010⁵.

I.1.2.2 Court fees in civil proceedings (Law of July 2005, LCCC)⁶

This legal act primarily lays down the basic regulations concerning the rules and procedure for collecting court costs in civil cases, rules for their reimbursement and exemption from them, as well as their amounts.

I.1.3 Insolvency legislation

I.1.3.1 Bankruptcy Law (Law of 28 February 2003 on Bankruptcy, Individual bankruptcy proceedings, LB)⁷

This legal act primarily lays down the basic regulations concerning principles of joint enforcement of creditors' claims against insolvent business debtors, rules on pursuing claims against insolvent debtors, who are natural persons and do not conduct business activity, the effects of bankruptcy, as well as rules for the redemption of liabilities of the bankrupt who is a natural person.

I.1.3.2 Register of insolvent debtors (Law of 20 August 1997 on the National Court Register)⁸

This legal act primarily lays down the basic rules concerning entry in the register and its legal consequences in its part concerning register of insolvent debtors.

I.1.3.3 National Debtors Register (Law of 6 December 2018)⁹

This legal act primarily lays down the basic rules concerning entry in the register and its legal consequences.

I.1.4 Enforcement limitation

I.1.4.1 Labour Code (Law of 26 June 1974, LC)¹⁰

⁵ Regulation of the Minister of Justice of 12 October 2010, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20101901277/O/D20101277.pdf>

⁶ Law of July 2005, LCCC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051671398/U/D20051398Lj.pdf>

⁷ Law of 28 February 2003 on Bankruptcy, Individual bankruptcy proceedings, LB, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20030600535/U/D20030535Lj.pdf>

⁸ Law of 20 August 1997 on the National Court Register, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19971210769/U/D19970769Lj.pdf>

⁹ Law of 6 December 2018, entered into force on 1 December 2020, available on:

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20190000055/U/D20190055Lj.pdf>

¹⁰ Law of 26 June 1974, LC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19740240141/U/D19740141Lj.pdf>



This legal act defines in general the rights and obligations of employees and employers. In the part concerning limits of the attachment of the salary it regulates remuneration enforcement limitation.

I.1.4.2 Pensions from the Social Insurance Fund (Law of 17 December 1998)¹¹

This legal act defines general conditions for acquiring the right to cash benefits from insurance retirement and disability pension, rules for determining the amount of benefits and the rules and procedure for granting and paying benefits. In the part concerning limits of the attachment of the benefits it regulates enforcement limitation.

I.1.4.3 Banking Law (Law of 29 August 1997, BL)¹²

This legal act primarily lays down the basic rules concerning principles of conducting banking activity.

I.1.4.4 Protection of the rights of tenants (Law of 21 June 2001, Regulation of 26 January 2005)¹³

The acts primarily regulate the principles and forms of protection of the rights of tenants and specific rules on eviction process.

I.1.4.5 Financial instruments trade (Law of 29 July 2005)¹⁴

This legal act primarily lays down the basic rules concerning procedure and conditions for taking up and conducting activities in the field of trading in financial instruments, rights and obligations of the entities participating in this turnover and rules on supervision.

I.1.5 Civil legislation

I.1.5.1 Civil Code (Law of 23 April 1964, CC)¹⁵

This legal act lays down the basic rules concerning civil law relations between natural and legal persons.

¹¹ Law of 17 December 1998, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19981621118/U/D19981118Lj.pdf>

¹² Law of 29 August 1997, BL, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19971400939/U/D19970939Lj.pdf>

¹³ Law of 21 June 2001, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20010710733/U/D20010733Lj.pdf>, Regulation of 26 January 2005, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20050170155/O/D20050155.pdf>

¹⁴ Law of 29 July 2005, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051831538/U/D20051538Lj.pdf>

¹⁵ Law of 23 April 1964, CC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19640160093/U/D19640093Lj.pdf>



I.1.5.2 Commercial Companies Code (Law of 15 September 2000, CCC)¹⁶

This legal act lays down the basic rules concerning creating, organizing, operating, dissolving, merging, dividing and transforming commercial companies.

I.1.5.3 Economic activity freedom (Law of 2 July 2004)¹⁷

This legal act lays down the basic rules concerning starting, performing, and terminating economic activity on the territory of the Republic of Poland as well as authorities' tasks in this regard.

I.1.5.4 Register of entrepreneurs (Law of 20 August 1997 on the National Court Register)¹⁸

This legal act in the part concerning register of entrepreneurs primarily lays down the basic rules concerning entry in the register and its legal consequences.

I.1.5.5 Central Register and Information on Economic Activity and the Information Point for Entrepreneurs (Law of 6 March 2018)¹⁹

This legal act lays down the basic rules concerning the register and information point functioning.

I.1.6 Criminal legislation

I.1.6.1 Collection of the costs of the criminal proceedings and court fees (Law of 23 June 1973)²⁰

This legal act lays down the basic rules concerning the fees in criminal proceedings.

I.1.6.2 Disciplinary responsibility (LEA,²¹ Resolution nr 1603/V of 6 September 2016 of the National Enforcement Agent Council,²² Law of 6 June 1997, Criminal

¹⁶ Law of 15 September 2000, CCC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20000941037/U/D20001037Lj.pdf>

¹⁷ Law of 2 July 2004, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20041731807/U/D20041807Lj.pdf>

¹⁸ Law of 20 August 1997 on the National Court Register, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19971210769/U/D19970769Lj.pdf>

¹⁹ Law of 6 March 2018, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000647/U/D20180647Lj.pdf>

²⁰ Law of 23 June 1973, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19730270152/U/D19730152Lj.pdf>

²¹ Law of 22 March 2018, LEA, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000771/U/D20180771Lj.pdf>

²² Resolution nr 1603/V of 6 September 2016 of the National Enforcement Agent Council, available on: https://www.komornik.pl/?page_id=187



Procedure Code, CPC,²³ Law of 6 June 1997, Penal Code, PC²⁴)

Disciplinary rules applying to enforcement agents are primarily laid down in the Law of 22 March 2018 in the part concerning disciplinary responsibility. The Code of professional ethics of enforcement agents was adopted by Resolution nr 1603/V of 6 September 2016 of the National Enforcement Agent Council. With regard to disciplinary liability, to the extent not regulated in the LEA, the provisions of the Criminal Procedure Code and Chapters I-III of the Penal Code shall apply accordingly.

I.1.6.3 Criminal responsibility (PC,²⁵ Law of 20 May 1971, Minor offences,²⁶ CPC²⁷)

The aforementioned acts lay down the basic rules concerning criminal responsibility.

I.2 Enforceable titles

As a rule, the compulsory judicial enforcement is carried out based on an enforceable title. However, there are some exceptions to this rule provided by law. An enforceable title is a writ of execution with an enforceability clause, unless the law provides otherwise.²⁸

An enforceability clause is defined as a court deed, in which the court states that the writ of execution presented by the creditor (claimant)²⁹ is enforceable and that enforcement against the debtor (defendant)³⁰ is permissible, and orders competent entities to enforce the enforceable title.³¹ The enforceability clause, if necessary, indicates the scope of enforcement and whether the judgment is enforceable as final

²³ Law of 6 June 1997, Criminal Procedure Code, CPC, available on:

https://www.google.com/search?q=kodeks+post%C4%99powania+karnego&rlz=1C1SKPC_enPL773PL773&oq=kodeks+pos&aqs=chrome.3.69i57j35i39l2j0l5.3190j0j8&sourceid=chrome&ie=UTF-8

²⁴ Law of 6 June 1997, Penal Code, PC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000771/U/D20180771Lj.pdf>

<https://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970890555/U/D19970555Lj.pdf>

²⁵ Law of 6 June 1997, Penal Code, PC, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf>

²⁶ Law of 20 May 1971, Minor offences, available on:

<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19710120114/U/D19710114Lj.pdf>

²⁷ Law of 6 June 1997, Criminal Procedure Code, CPC, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf>

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19710120114/U/D19710114Lj.pdfhttps://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970890555/U/D19970555Lj.pdf>

²⁸ Art. 776 CCP.

²⁹ A party seeking enforcement in civil cases, the claimant is usually a creditor, but the two terms are not synonymous, as the claimant may equally well seek the enforcement of an “obligation to do” or “to refrain from doing”.

³⁰ A party against whom enforcement is sought. In civil cases, the defendant is usually a debtor, but the two terms are not synonymous.

³¹ E. Wengerek, *Judicial Proceedings*, s. 142.



or immediately enforceable, as well.³² Only the court is entitled to examine the merits and the maturity of the obligation covered by the writ of enforcement.³³

However, the enforcement agent refuses to initiate enforcement if the content of the writ of enforcement indicates that the limitation period of the pursued claim expired, and the creditor did not submit suitable document. Unless specific regulations stipulate otherwise, writs of execution awarding performances denominated in foreign currencies are appended by the court with clauses imposing the obligation on enforcement agents to translate awarded amounts to the Polish currency, based on the average exchange rate of Polish zloty (PLN) and respective foreign currencies published by the National Bank of Poland on the date preceding the day when amounts due are delivered to the creditor.³⁴

There are several types of the writs of execution, such as:³⁵

1. the court's or legal secretary's final decision or subject to immediate enforcement, as well as the settlement made before the court;
2. other judgments, settlements and acts, which are enforceable through judicial enforcement;
3. notarial deed, in which the debtor submitted himself/herself to enforcement and which includes obligation to pay a sum of money or to deliver items marked as to genre, quantified in the act, or to release items individually marked, when the act indicates the date of the obligation or event on which performance depends;
4. notarial deed, in which the debtor submitted himself/herself to enforcement and which includes an obligation to pay a sum of money up to the amount in the act specified directly or marked with a valorisation clause, when the act indicates an event on which the performance of the obligation depends as well the date up to which the creditor may request an enforcement clause;
5. a notarial deed specified above, in which the person whose property, claim or right is encumbered with a mortgage or pledge is not a personal debtor.

The debtor's declaration of submission to enforcement may also be submitted in a separate notarial deed. The writ of execution is granted with the enforceability clause at the creditor's request by the court of first instance in which the case has been pending immediately, but not later than within three days from the date of the application submission.³⁶ The court may also act *ex officio* when a writ of execution has been resulted by proceedings which have been or could have been initiated *ex officio*, as well when a fine or financial penalty is imposed in civil proceedings or court costs are granted to the State Treasury in civil matters. A payment order issued via

³² Art. 783 sec. 1 CCP.

³³ Art. 804 sec. 1 CCP.

³⁴ Art. 783 sec. 1 CCP.

³⁵ Art. 777 sec. 1 CCP.

³⁶ Art. 781¹ CCP.



electronic proceedings is granted the enforceability clause *ex officio* immediately after becoming final.

The court of second instance appends an enforceability clause as long as the case file is present in this court.³⁷ When the creditor intends to initiate enforcement abroad - the district court in whose district the writ was issued remains competent to append an enforceability clause.³⁸

In the cases indicated by various acts,³⁹ enforcement proceedings may be initiated solely based on the writ of execution, without the need of enforceability clause.⁴⁰

1.3 Service of documents to parties and third parties

There are time limits for taking all procedural steps since the date of delivery.⁴¹ As a rule, in practice, civil service of documents (including enforcement procedure) is operated via the postal operator. Posting a letter in the Polish post office or in the post office of an operator providing universal postal services in another Member State of the European Union is tantamount to bringing it to the authority (posting date). The court may also use for delivery persons employed in the court, the judicial delivery service or the enforcement agent service.

If the defendant, despite repeating notification, has not received the action or similar document initiating court proceedings, the court obliges the plaintiff to serve the letter to the defendant through an enforcement agent. Within two months, the plaintiff submits a confirmation of the enforcement agent's delivery to the defendant or returns the letter and indicates the current address of the defendant or proof that the defendant stays at the address indicated in the lawsuit. If the enforcement agent receives an application from a plaintiff obliged by the court,⁴² delivery should be made personally⁴³ and directly within 14 days to the addressee with acknowledgment of

³⁷ However, this does not apply to the Supreme Court and some other specific cases.

³⁸ When the writ of execution is issued by the administrative court and other entities, the enforceability clause is issued by the district court of the general competence, in which district the debtor's domicile is located. If this cannot be determined, the clause is given by the district court, in which district the enforcement is to be initiated.

³⁹ Not only by the CCP but generally by any other legal act of the rank of the law.

⁴⁰ Final enforcement agent's decision imposing fine (art. 7681 CCP); Final decisions on costs and fines that are subject to judicial enforcement (art. 228 of the Law on proceedings before administrative courts; fines imposed in proceedings before administrative courts are also, in addition to court costs, revenues of the State); Final enforcement agent's decision on process enforcement costs refunding (art. 7701 CCP); Final decision on the award of property (art. 999 sec. 1 CCP. It is a writ of execution to bring the purchaser into possession of the property and to empty the premises located on the property without the need for an enforceability clause); Legally binding order requiring the debtor to pay the creditor an amount of money for a delay in performing an irreplaceable act (art. 10501 CCP); Legally binding order requiring the debtor to pay a sum of money for a breach of the obligation to refrain from or distorting the creditor's acts (art. 10511 1 CCP and 10501 sec. 3 CCP); The court's decision to declare bankruptcy or to appoint a trustee (art. 174 of BL); Order of the judge-commissioner to deliver the pledge to the receiver (art. 327 sec. 2 and 3 of BL), as well as final decision ordering the forced removal of property (art. 327 sec. 2 and 3 of BL).

⁴¹ Piaskowska Olga Maria (red.), CCP. Judicial Procedure. Commentary.

⁴² Art. 139 (1) CCP.

⁴³ It may be performed by the enforcement agent's trainee as well (art. 138 sec. 4 LEA).



receipt and stating the date. If delivery turns out unsuccessful, a statement that the addressee does not reside at the address provided should be made.⁴⁴

However, when it has been confirmed that the addressee resides at the given address and delivery was not possible, the enforcement agent leaves the notification about the attempted/failed delivery in the mailbox of the addressee, together with information about the possibility of receiving a letter at the enforcement agent's office within 14 days from the date of the notification. An adult recipient's household member found at the address indicated may also be instructed about the possibility of the receipt of the letter by the addressee.

In case of ineffective expiry of the deadline for receipt of the letter, the letter is considered to have been served on the last day of this period. The enforcement agent returns the letter to the contracting entity delivery by informing of the arrangements made and of the date of delivery. If the attempt to serve is unsuccessful because the addressee does not reside at the address indicated, the enforcement agent returns the letter to the entity ordering delivery. The ordering entity may apply to this enforcement agent to determine the current address of recipient.

The competent enforcement agent cannot refuse to perform the abovementioned activities. During the enforcement procedure, enforcement agents serve documents to the parties according to general rules, by post. They can also deliver all correspondence directly. There are two main modes of delivery: proper (direct) - oriented on delivering the document to the addressee's own hands - and alternative service - used when proper delivery is not possible. If a legal representative or a person authorized to collect court documents has been appointed, service should be carried out to these persons.

Pleadings or judgments for a legal person or organization which does not have legal personality, shall be served on the body authorized to represent them before the court or to the employee authorized to receive the letters. The State Treasury is always served by delivering a letter to the body authorized to represent the Treasury or to the authorized employee. Service is carried out in the flat, at the workplace or anywhere else the addressee is found.

At the request of a party, delivery may be made to the post office box address. In this case, the court letter sent via the postal operator shall be submitted to that operator's post office by placing a notice in the addressee's post office box. The letter submitted to the operator's post office or municipal office is handed over to the person authorized to collect it.⁴⁵ The delivery which has not been picked up is marked with the annotation "not taken on time", the date stamp and the confirmation of receipt form. The lack of any of the listed elements of delivery confirmation may constitute an effective basis for appeal.⁴⁶

⁴⁴ Art. 3a LEA.

⁴⁵ The person authorized to collect the parcel deposited in the operator's post office is a person authorized based on a special postal power of attorney.

⁴⁶ The practice indicates numerous cases of irregularities in the delivery by the public operator.

According to new CCP regulation, electronic service of documents is also possible, but currently only in theory. There are ongoing works of the Minister of Justice on the creation of the IT system, which is supposed to support enforcement and security proceedings maintained by enforcement agents, enabling e-delivery instead of registered mail.⁴⁷

In the legal sense, e-delivery will be as effective as sending a traditional registered letter via postal service. Public entities will have to have an electronic delivery address, as this communication channel is to become the primary means of sending correspondence with acknowledgment of receipt. It will be used for all citizens whose electronic addresses will be in a specially created database.

The system will keep the documentation and will enable submission of letters via users' accounts. The date of successful delivery will be the date of entering the letter in the IT system. The addressee who has chosen to lodge letters via the IT system may opt out of electronic delivery. Resignation should be made in the same way as choosing the submission of letters via the IT system. However, currently there are some specific e-delivery procedures. The enforcement agent serves the administrative enforcement authorities and tax authorities exclusively via the IT system or using electronic means of communication.⁴⁸

There is also an e-judgment procedure of electronic writ of payment, which concerns cases of small financial claims filed en masse against different debtors but based on identical facts procedure. This is an optional proceeding, since the case is pending in this proceeding only if the creditor chooses to submit the claim electronically. An electronic application for enforcement may be submitted to the enforcement agent via the IT system. Case files are kept in electronic form and are subject to sharing with the parties in the same form.

At the first enforcement action, the enforcement agent serves the debtor a notification of the initiation of enforcement, specifying the content of the writ of enforcement and listing the method of enforcement, as well as instructions on the possibility, time limit and way to lodge an appeal against the decision granting an enforceability clause.⁴⁹

Every single pleading should contain:

1. enforcement agent designation;
2. names and surnames of the parties, their statutory representatives and proxies;
3. designation of the type of letter;
4. the basis of the application or statement;

⁴⁷ The law on electronic delivery is supposed to come into force on 1 October 2020.

⁴⁸ In the manner specified in the regulations issued based on Art. 63a sec. 2 Law of 17 June 1966 on enforcement proceedings in administration.

⁴⁹ To facilitate the enforcement proceeding, the Ministry of Justice introduced in January 2019 the form/template of the motion of initiation of the enforcement procedure.



5. where it is necessary to decide on the application or statement - an indication of the facts on which the party bases their application or statement, and an indication of evidence of each of these facts;
6. signature of the party or statutory representative; and
7. list of attachments.

Further pleadings should also include the file reference number. A procedural document lodged via the IT system shall be provided with a qualified electronic signature, a trusted signature or a personal signature.

1.4 Legal remedies, appeal and objection

Appeals in enforcement proceedings can be divided into ordinary (objections), extraordinary (e.g. complaint about resumption of proceedings) and special, such as: complaint about the enforcement agent's actions or complaint about the distribution plan of the sum obtained from enforcement. Ordinary objections against court or enforcement agent's decisions may be filed by the parties during proceedings whenever the legal provision allows. A debtor and any other person, whose rights have been violated or threatened by the enforcement agent's enforcement actions, have the possibility to challenge enforcement measures.

Only actions that are not in accordance with the procedure are subject to the complaint. The subject of the complaint may be the enforcement agent's act or failure to perform the enforcement agent's actions.⁵⁰ A complaint about the enforcement agent's action may concern any of the enforcement agent's actions, except for a request for providing the foregoing elements of the motion, notification of the date of the action and payment of VAT.⁵¹ The enforcement agent's actions may be subject to a complaint filed to the competent district court, according to the enforcement agent's office location, unless the law provides otherwise.

Lodging a complaint does not suspend enforcement proceedings or performing the contested action unless the court suspends the proceedings. The complaint, which is subject to fee of PLN 50.00, should be lodged not later than within one week from:

- the performance of the act, if the applicant was present during the act or was previously notified of the date of the act;
- the applicant's notification of the act, if they were not present during the act and not previously notified of the date of the act;
- the moment when the applicant found out about the act, if they were not present during the act performance and not previously notified of the date or the completion of the act;

⁵⁰ If a party questions the validity of the enforceability clause, they should file a complaint against the decision granting it (Art. 795 CCP). If a party disputes the existence of an obligation covered by an enforceable title, art. 840 CCP applies. Art. 841 CCP applies for the claim for release of the seized object from enforcement procedure.

⁵¹ Art. 767 CCP.

- the moment when the applicant learned that the act was to be carried out, when the complaint relates to the enforcement agent's failure to act.

The complaint should include a request for revocation, amendment, or order to act. When signed and attached with copy, the complaint should be submitted to the enforcement agent's office, who has three days to forward the complaint together with the justification and the case files to the district court. The enforcement agent may also declare the complaint fully justified. The court examines the complaint within a week time. In the event of an obvious violation of law by an enforcement agent, the court, having regard to the complaint, may, depending on the circumstances, charge the enforcement agent with the costs of the proceedings. The court's decision may be appealed by both: the parties and the enforcement agent.⁵²

I.5 Postponement, suspension and termination of enforcement

I.5.1 Suspension

Initiated enforcement proceedings may be suspended during their conduct. As a result, the enforcement agent may not continue the enforcement activities. Acts already carried out remain in force. During suspension, debtor's seized assets may not be transferred to the creditor, and the recovered sums go to the deposit account.

1. The creditor can submit such an application, which does not require justification, at any time during the proceedings.
2. The debtor may request suspension at any stage of the proceedings when:
 - the immediate enforceability of an enforceable title has been revoked or suspended by the court;
 - the debtor lodged security to release him/her from enforcement;
 - there was no successful delivery of default judgment or payment order - however the enforcement agent can still take further actions aiming to enforce the enforceable title in the future, such as the attachment of the debtor's assets.
3. The enforcement agent suspends the proceedings ex officio as soon as the existence of legal grounds for a suspension specified by law has been revealed, such as:
 - lack of legal capacity or legal representative (of debtor and/or creditor);
 - death of creditor or debtor.
4. There is also suspension by law, e.g., when a debtor's bankruptcy has been declared.

⁵² To simplify the procedure, the Ministry of Justice introduced the complaint form so the debtors' complaints would no longer be rejected on the basis of failing to comply with formal deficiencies. The forms are available in enforcement agents' offices, district and regional court buildings, on the internet site of the Ministry of Justice (<https://www.gov.pl/web/sprawiedliwosc/formularz-wniosku-o-wszczecie-egzekucji-oraz-skargi-na-czynnosci-komornika>) and on the courts' websites.

5. Suspension may be also ordered by court, in whole or in part, when a complaint has been lodged against the enforcement agent's actions or the court's decision has been appealed.

I.5.2 Postponement

The enforcement agent will refrain from performing the action if:

1. prior to the action the debtor submits clearly in writing that he has fulfilled his duty or
2. that the creditor has agreed on delay or
3. the debtor or his/her spouse raises an objection arising from the marriage contract known to the creditor.

The enforcement agent, however, shall take action, as appropriate, to enable future enforcement activities. The enforcement agent shall immediately notify the creditor of the postponement of activities. At the creditor's request the enforcement agent shall immediately perform postponed action.

I.5.3 Termination of enforcement

Discontinuation of enforcement also ends the enforcement proceedings, but not because of the successful claim enforcement, but as a result of other events. The enforcement agent discontinues the proceedings (in whole or in part):

- at the request of the creditor; however, in cases where enforcement is initiated *ex officio* or at the request of an authorized body, the creditor's application for discontinuation requires consent of the authorized bodies;
- if the enforceable title has been deprived of enforceability or the decision granting the enforceability clause has been revoked or expired;
- if the enforcement was directed against a person who is not a debtor and who opposed to the enforcement;
- if the enforcement is for other reasons manifestly contrary to the writ of execution;
- if the creditor has a pledge securing full satisfaction of the enforced claim, unless the enforcement concerns the subject of the pledge;
- if there was an enforcement of remuneration for work as to benefits due in the future and the debtor has paid all the payments due and he/she deposited a sum equal to the sum of periodic benefits for six months, with simultaneous authorization of the enforcement agent to withdraw this sum.

In some cases, as in the case of the suspension of proceedings, the enforcement agent shall discontinue the proceedings *ex officio*, as soon as they become aware of the reason for the discontinuation such as:

- lack of competence;
- no legal capacity of parties;

- the enforcement is not permitted;
- there are no debtor's assets;⁵³
- lack of creditor's activity within six months; or
- lack of demand for the proceedings' suspension.

Discontinuation ex lege takes place when the bankruptcy decision becomes final.

The enforcement agent issues a decision indicating the legal basis for discontinuation and the amount of enforcement costs to be paid by the debtor or, if the enforcement was pointless, the creditor. The enforceable title, together with an annotation about the outcome of the proceedings (e.g., information about the amount recovered) is returned to the creditor.

I.6 Counter enforcement

There are no special rules concerning enforcement against the party that has initiated enforcement. A claimant may be at the same time a defendant in the enforcement procedure. The enforcement agent is obliged to follow the scope of the enforceable title.

However, according to the law, when two people owe each other (when two persons are both debtors and creditors to each other) each of them may set off their claim against the claims of the other party, if the subject of both claims is money or things of the same quality, marked only as to the species, and both claims are due and can be pursued before court or other state authority. As a result of the set-off, both claims redeem each other up to the amount of the lower claim.⁵⁴

It is important that in order for the set-off to be effective, it is necessary to submit a declaration of will in this matter. This means that despite the fulfillment of the above statutory conditions for set-off, there will be no mutual set-off of receivables without a prior declaration of will, because such a declaration is constitutive. As a rule, the form of the declaration is optional, however, for evidential purposes, it is more reasonable to make it in writing. For the declaration to be binding, the other party must be able to read it. In this respect, the general rules of service included in the provisions of civil law apply. According to them, it is assumed that the declaration of will was submitted at the time of delivery to the addressee, if there is a real opportunity to read the content. It should also be remembered that not every claim can be set off. Certain claims may not be subject to the set-off, such as: 1) debts that cannot be attached, 2) claims for the provision of means of subsistence, e.g., alimony, 3) claims arising from tort, 4) claims for which set-off is excluded by special provisions.⁵⁵

The so called "anti-enforcement action" is a type of action available to apply during ongoing enforcement proceedings. This is one of the means of defending the debtor

⁵³ According to statistics, the most common reason for discontinuation. Enforcement is then pointless.

⁵⁴ Art. 498 CC.

⁵⁵ Art. 505 CC.

or a third party against enforcement that violates their rights. The described measure is an action that the debtor or other party files during the ongoing enforcement proceedings against the creditor, not against an enforcement agent. There are two types of anti-enforcement action: opposition and ex-case action.

Anti-enforcement actions are brought before the competent court in whose district the enforcement is carried out. This means that bringing an action before a district or regional court depends on whether the case should be heard in the first instance.⁵⁶ An anti-enforcement action (like any other) should contain elements of a pleading.⁵⁷ In the case of an opposition action, the lawsuit must also specify the enforceable title to be rendered non-enforceable and its extent (in whole or in part) or limitation of enforceability. In the event of an interpleader claim the lawsuit must indicate the seized object whose exemption from enforcement is sought. A relative fee is charged on an anti-enforcement action, the amount of which depends on the value of the subject of dispute. In the case of an opposition, the value of the subject of the dispute is the amount of the performance ascertained by the enforceable title, which is questioned by the debtor. In the case of an interpleader claim it is the value of the seized object. The fee should be paid by the plaintiff: the debtor in the case of an opposition action, the third party in the case of an interpleader claim.

1.6.1 Opposition action

This is the only substantive means of defending the debtor against enforcement, since the enforcement authorities do not examine the legitimacy and maturity of the obligation covered by an enforceable title. The application of this action consists in the fact that the debtor may, by way of a claim, demand the deprivation of the enforceable title of enforceability in whole or in part or its limitation.⁵⁸

1.6.2 Interpleader claim

The essence of this action is that a third party may request the release of the seized object from enforcement if enforcement violates their rights⁵⁹. A third person is any person other than the debtor, listed in the writ of enforcement, whose rights have been violated during the enforcement proceedings. An interpleader claim is admissible after enforcement has been initiated by seizing the object for which the claimant is seeking exclusion. This action is brought against the creditor, and if the debtor denies the right of a third party, then the debtor should also be sued. This action may be brought within one month of becoming aware of the violation of law. A final judgment ordering the release of certain items from enforcement by the creditor unable the creditor to seek to enforce the same claim on these objects.

1.7 Objects and exemptions on enforcement

The legislator has specified a catalogue of items that are excluded from enforcement,

⁵⁶ Art. 16 and 17 CCP.

⁵⁷ Art. 126 and 187 CCP.

⁵⁸ The debtor's spouse is also entitled to file an opposition action based on the allegations not only of their own right, but also allegations that the debtor could not have previously raised.

⁵⁹ Such as ownership, joint ownership, perpetual usufruct, use of movable property.

even when the debtor's remaining assets are not enough to pay off the debt. Exemptions from judicial enforcement have been determined by the legislator, mainly for humanitarian reasons, but also because of the creditor's interest. A debtor's basic standard of existence allows to increase the chances of enforcing claims in the longer term.

I.7.1 Objects excluded from enforcement⁶⁰

The following objects owned by the debtor may not be enforced:

1. household appliance items, bedding, underwear and casual clothing necessary for the debtor and his family members, who are dependent on him/her as well as clothing necessary to perform the service or profession;
2. food and fuel supplies necessary for the debtor and family members for one month;
3. one cow or two goats or three sheep needed to feed the debtor and his/her family members, along with the supply of feed and litter for the next harvest;
4. tools and other items necessary for the debtor's personal work and raw materials necessary for him/her for production for one week, excluding motor vehicles;
5. items necessary for learning, personal papers, decorations and items for performing religious practices, as well as items for everyday use that can only be sold well below their value and have significant utility value for the debtor;
6. medicinal products⁶¹ necessary for the functioning of a medicinal entity for three months;
7. items necessary due to the disability of the debtor or his family members.

If a debtor is a farmer, separate regulation indicates the items which are not enforceable due to their role.⁶²

I.7.2 Diverse cash benefits

The following may not be enforced:

1. periodic fixed pay received by the debtor;⁶³

⁶⁰ Art. 829 CCP.

⁶¹ Within the meaning of the Law of 6 September 2001- Pharmaceutical Law.

⁶² Among them are: basic livestock herd, some farm animals, basic agricultural machinery, necessary farm buildings and agricultural land, tools and equipment, fuel supplies for a period of six months, fertilizers, plant protection products and plant conditioners necessary in a given marketing year for the debtor's farm, basic technical equipment, advance payments for the supply of agricultural products. See: art. 830 CCP, Regulation of the Minister of Justice of 5 July 2017 on determining the items belonging to a farmer who runs a farm that are not subject to enforcement, available on:

<http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20170001385/O/D20171385.pdf>

⁶³ Money in an amount that corresponds to the non-enforceable part of the pay for the time until the nearest payday, and for a debtor not receiving a fixed pay the money necessary for him/her and his/her family to support for two weeks.

2. sums and benefits in kind allocated to cover expenses or business trips;
3. sums awarded by the State Treasury for special purposes,⁶⁴ unless the enforced claim arose in connection with the achievement of these purposes or due to the maintenance obligation;
4. funds from programs financed with the funds from public finance paid in the form of an advance, unless the claim results from the implementation of the project;
5. non-transferable rights, unless the possibility of their sale has been excluded by the contract and the subject of the service is enforceable or the exercise of the right may be entrusted to someone else;
6. benefits from personal insurance and indemnity from property insurance, except for maintenance claims;
7. social assistance benefits;
8. claims due to the debtor from the state budget or from the National Health Fund in the amount of 75% of each payment, unless it concerns the debts of the debtor's employees or service providers;
9. sums awarded by ECHR if the enforced claim is vested in the State Treasury;
10. integration benefit;
11. claims due to the housing cooperative⁶⁵ against their members and those who have the cooperative right to the premises or ownership of the premises⁶⁶;
12. claims paid in connection with funeral;⁶⁷
13. maintenance payments and cash benefits paid in the event of ineffective enforcement of maintenance;
14. family benefits;
15. family, nursing and childbirth allowances for complete orphans;
16. carer's allowances;
17. social assistance benefits;
18. integration benefits;
19. parental benefits.

I.7.3 Enforcement from an inheritance

⁶⁴ In particular scholarships, support.

⁶⁵ The purpose of the housing cooperative is to meet housing needs and other needs of members and their families, by providing members with independent housing or houses single-family houses, as well as premises for other purposes (art. 1 of Law of 15 December 2005 on housing cooperative, available on: <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20200001465/O/D20201465.pdf>)

⁶⁶ Art. 831 CCP.

⁶⁷ As a grant or a one-off supply under any name, or for insurance to cover funeral expenses, they are only enforceable to cover those costs.



In the period between the opening of the inheritance and its acceptance, enforcement is limited to protect the interests of potential heirs. Until the inheritance is accepted, enforcement is allowed only from the inheritance mass. Before accepting an inheritance, it may not be enforced to satisfy the personal debt of the heir.⁶⁸

Enforcement may not be carried out against persons who possess diplomatic or consular immunity and are protected by judicial immunity, unless the sending State or the relevant international organization has waived their judicial immunity in relation to the enforcement proceedings. If enforcement is allowed, enforcement against property for official use and by coercion against the debtor is unacceptable. Enforcement is not allowed in the premises occupied by diplomatic missions, foreign missions or consular offices of foreign countries in the Republic of Poland and in the flats, unless the head of a diplomatic mission, foreign mission or consular post agree.⁶⁹

1.8 (Court) penalties and fines

When the debtor or any other person is not complying with the orders of the enforcement agent or court orders, they can impose fines and penalties. If the code enables imposing a fine without specifying its amount, the fine is imposed up to PLN 3,000.00. Fines are collected by court enforcement in favour of the State. The court's decision regarding the fine imposed by the enforcement agent is not final and may be appealed.⁷⁰

Court Obligatory fines may be imposed:

- for unreasonable refusal by a third party to submit a requested document;⁷¹
- when a party has raised allegations in bad faith or recklessly, concerning the veracity of a private and official document;⁷²
- on an expert for unjustified failure to appear, unjustified refusal to make a promise or an opinion or for an unjustified delay in submitting an opinion;⁷³
- on a third party who, without justifiable reasons, did not comply with the inspection orders;⁷⁴
- on the debtor, after the ineffective expiry of the deadline set to perform the act, upon the creditor's request.⁷⁵ Instead of a fine, the court may, upon the creditor's request, order the payment of a certain sum of money to the creditor for each day of delay.⁷⁶

The court may fine:

⁶⁸ Art. 836 CCP.

⁶⁹ Art. 1115 CCP.

⁷⁰ Art. 768 CCP.

⁷¹ Art. 251 CCP.

⁷² Art 255 CCP.

⁷³ Art. 287 CCP.

⁷⁴ Art. 296 CCP.

⁷⁵ Art. 1050 CCP.

⁷⁶ Art. 1050¹ CCP.



- the party who without justified reasons does not comply with the provisions or orders;⁷⁷
- anyone who fails to comply with the order of submitting the requested document;⁷⁸
- the party summoned to appear in person if they do not appear without justified reasons.⁷⁹

If the debtor, without reason, does not appear in court to submit a list or promise, or having appeared, they do not submit, or refuse to answer the question or refuse to make a promise, the court may also order a forced bringing and arrest them for a period of up to one month.⁸⁰

Enforcement agent obligatory fines may be imposed:

- on an employer who has transferred to the debtor the attached sum of remuneration, did not submit the declaration on the debtor's remuneration or neglected to send documents of attachment of remuneration to the new employer of the debtor, up to PLN 5,000.00. The fine is repeated if the employer continues to evade these activities;⁸¹
- on a debtor who has not notified the enforcement agent of an employer change, up to PLN 5,000.00.

The enforcement agent may fine:

- for unjustified refusal to provide requested explanations or information as well as for providing information or explanations knowingly false, up to PLN 2,000.00, at the request of the creditor or ex officio;⁸²
- the debtor who fails to notify of the change of his place of stay, up to PLN 2,000.00, at the request of the creditor or ex officio;⁸³
- a person who behaves improperly or interferes with the enforcement agent's activities, up to PLN 1,000.00, if that person was previously unsuccessfully warned and asked to leave;⁸⁴
- the debtor for not submitting without justification a list of property together with a statement of its truthfulness and completeness, or for failure to answer the question.⁸⁵

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

⁷⁷ Art. 475 CCP.

⁷⁸ Art. 722 CCP.

⁷⁹ Art. 429 CCP.

⁸⁰ Art. 916 CCP.

⁸¹ Art. 886 CCP.

⁸² Art. 762 CCP.

⁸³ Art. 762 CCP.

⁸⁴ Art. 764 CCP.

⁸⁵ Art. 801¹ CCP.

When initiating enforcement proceedings, the enforcement agent uses information received from the creditor in the enforcement motion. Currently, indication of the debtor's assets by the creditor or other authorized entity in the enforcement motion is not mandatory. If not indicated, the enforcement agent is obliged to determine the debtor's assets. If the creditor or the court ordering ex officio the enforcement or the authorized body requesting the enforcement do not indicate the property allowing for satisfaction of the claim, the enforcement agent ex officio:

1. determines the debtor's assets to the extent known to him/her from other proceedings conducted either on the basis of publicly available sources of information or registers to which he/she has electronic access;
2. calls on the debtor to submit a list of assets.

To the extent necessary to conduct the enforcement proceedings, the enforcement agents have direct access to nationwide databases such as:

- Internet OGNIVO (on-line) system - an electronic system used to find hidden bank accounts of debtors;
- Central Register of Insured Social Insurance Institution – an electronic inquiry to the Social Insurance Institution (PUE) allow to quickly obtain information on the sources of income of the debtor and the place of employment;
- Central Register of Vehicles and Drivers (CEPIK) - access to the Central Register of Vehicles and Drivers allows to obtain information about vehicles and their owners;
- Central Register PESEL (ID nr) - system allows to determine, among others person's registered address, registers of residents and registers of foreigners' residence;⁸⁶
- Electronic Land and Mortgage Registers (EKW) - electronic access allows to determine the current content of the Land and Mortgage Registers, obtaining information on the ownership of premises;
- Polish Land and Mortgage Register Database;
- Electronic Search Engine of the Central Database of Land and Mortgage Registers (CDBKW) - enables the search of real estate of debtors throughout Poland;
- National Register of Court (KRS) - electronic access to KRS-ONLINE allows to obtain data on all business legal entities covered by the National Court Register, their business activities and relationships with other entities;
- Central Records and Information on Economic Activity (CEIDG) available online for free for search of entrepreneurs who are natural persons;
- Internet geodetic system;

⁸⁶ Art. 46 section 1 point 3 of the Act on the population register.



- E-Court Electronic writ of payment procedure (EPU) that allows comprehensively handling cases conducted by the e-Court and enables access to applications and enforcement orders submitted to the office in electronic form.

The Register of Insolvent Debtors (RDN)⁸⁷ is a state institution created as part of the National Court Register⁸⁸ and serves to authenticate business transactions and protect companies, entrepreneurs and citizens against dishonest and insolvent persons. The court shall ex officio enter to the register specified debtors who went bankrupt as well as maintenance debtors with arrears for more than six months. Entries are subject to removal from office after ten years. The registry court also deletes an entry in the register upon request when the enforceable title becomes unenforceable by a final court decision.

The Register of Debtors is the database of the Economic Information Bureau (BIG), which contains data on the financial arrears of consumers and entrepreneurs.⁸⁹

The **Credit Information Bureau (BIK)**⁹⁰ is the country's largest collection of data on individual clients and entrepreneurs, also in the area of non-bank loans.

The **National Debtors Register** is a project of a new database with information on debtors, which is to be launched at the end of 2020. This system will collect data on all entities against which restructuring, or bankruptcy proceedings are conducted or have been conducted.

No national database of debtors and enforcement proceedings has been created so far.

1.9.1 Information on the Debtor

The enforcement authority may ask all participants in the proceedings to provide explanations. The enforcement authority may also require providing information within a set time limit based on the possessed databases from various public and private entities.⁹¹

Information request may be challenged. The enforcement agent is obliged to keep the circumstances of the case secret. The obligation continues after the dismissal and ceases when the enforcement agent gives a testimony as a witness or party to a court or prosecutor, unless disclosure of the secret threatens the State. In this case, the Minister of Justice may release the enforcement agent from their secrecy obligation.

⁸⁷ <http://krdn.pl/orejstrze>

⁸⁸ Law of 20 August 1997 on the National Court Register. Art. 55 - Art. 60 regarding the RDN.

⁸⁹ There are five BIGs operating on the Polish market, which keep Debtors' Register: BIG InfoMonitor Debtors Register, National Debt Register, ERIF Debtors Register, BIG National Telecommunications Debt Information and National Economic Information Bureau (KBIG).

⁹⁰ <https://www.bik.pl/o-nas>

⁹¹ 1) Public administration bodies, 2) entities performing public administration tasks, 3) tax authorities, 4) pension authorities, 5) banks, 6) cooperative savings and credit unions, 7) insurance or reinsurance undertakings, 8) entities maintaining listed securities accounts, 9) housing cooperatives, 10) housing associations, 11) other entities managing premises, 12) economic information offices, and 13) other institutions and persons not participating in the proceedings.

When calling on the debtor to submit a list of assets, the enforcement agent should warn them of criminal liability for submitting a false statement and instruct that if the list of assets is not submitted, the creditor may order the enforcement agent to search for the property.⁹²

In addition, the enforcement agent should instruct the debtor about the possibility of fine or forced delivery, if they fail to provide a list of property or refuse to make a promise without just cause.⁹³ A debtor who has made a promise or has been subject to coercive measures is obliged to submit a new list and promise at the request of the same or another creditor, when one year has elapsed since the promise was made or the coercive measures have been exhausted. When the enforcement agent remains unable to recover the money from the debtor, they urge the creditor to indicate the debtor's property under pain of discontinuing enforcement as ineffective.⁹⁴

1.9.2 Institution of disclosure of assets by the debtor⁹⁵

The creditor may submit to the court a request for disclosure of assets by the debtor when there are no prospects for satisfaction of the enforced claims. The court, if it agrees, calls on the debtor to submit a detailed list of assets, claims and other property rights together with the promise that it is true and complete. The debtor faces criminal liability for giving false testimony.⁹⁶ The decision to oblige the debtor to disclose the property results in the entry of such a debtor to the Register of Insolvent Debtors for ten years *ex officio*.⁹⁷ If, without just cause, the debtor fails to appear in court or does not submit a list of property, they may be fined or detained for a maximum of one month. When the period of one year since the promise or coercive measures have been exhausted has elapsed, a debtor is obliged to submit a new list and promise at the request of the same or another creditor. The debtor is also obliged to notify the enforcement agent within 7 days of any change of his stay, lasting more than one month.⁹⁸

PART II: ORGANIZATION OF ENFORCEMENT

II.1 The status of the judicial officer

Enforcement matters fall under the competence of the district courts and the enforcement agents acting thereby. Enforcement operations are carried out by the enforcement agents, except for operations which are reserved for courts. The enforcement agent is a public functionary who acts by the district court. More than one enforcement agents may operate in one district may operate. The enforcement agent remains a public authority in the scope of performing enforcement and security proceedings activities. They are obliged to perform enforcement activities and security proceedings as well as other statutory tasks in person. They may commission

⁹² Art. 801¹ sec. 1 CCP.

⁹³ Art. 801¹ sec. 2 and 3 CCP.

⁹⁴ This is the so-called "hearing" regulated by art. 827 CCP.

⁹⁵ Art. 913-920¹ CCP.

⁹⁶ Imprisonment up to three years.

⁹⁷ Art. 55 point 3) of the Law on the National Court Register.

⁹⁸ Under fine penalty of up to PLN 2000.00, art. 762 CCP.



specific tasks to the enforcement agent's trainee for the purpose of preparation for the profession only.⁹⁹

While carrying out professional tasks, the enforcement agent cares about good administration of justice and the public interest. The enforcement agent is entrusted with the following enforcement tasks:¹⁰⁰

1. enforcement of court decisions in cases regarding monetary and non-monetary claims and securing claims, including European account preservation orders, subject to the exceptions provided for in CCP;
2. enforcement of other enforceable titles and writs of execution, which are subject to enforcement by way of enforcement without providing an enforceability clause;
3. enforcement of orders to secure evidence and provisions ordering the issue of evidence in proceedings regarding intellectual property;
4. enforcement of orders to secure the inheritance or making an inventory;¹⁰¹
5. performing tasks specified in other laws.

Beside enforcement activities, the enforcement agents also perform non-enforcement actions such as:¹⁰²

1. service of documents at the order of the court or at the plaintiff's request obliged by the court;
2. recipient current address determination - at the request of the entity indicated above;
3. drawing up a statement of facts;
4. official supervision over voluntary public auctions¹⁰³- at the request of the auction organizer.

The enforcement agent uses the title: "enforcement agent at the District Court ... Office Enforcement agent nr ... in ..." with the name and address of this/her office. The enforcement agent is obliged to act in accordance with the law provisions, follow the court decisions issued under judicial supervision and orders or recommendations obtained from authorized administrative supervisory authorities, as well as follow a given oath and the professional ethics principles. The enforcement agent is also obliged to constantly raise professional qualifications.

The enforcement agent is a self-employed professional of public trust, who is obliged to organize an individual enforcement agent's office. An enforcement agent may run only one office and is not allowed to participate in any partnership form or create office branches. The creditor has the right to choose an enforcement agent within the

⁹⁹ Called "asesor".

¹⁰⁰ Art.3.3 LEA.

¹⁰¹ It may be performed by the enforcement agent's trainee as well ([art. 138 sec. 4 LEA](#)).

¹⁰² It may be performed by the enforcement agent's trainee as well ([art. 138 sec. 4 LEA](#)).

¹⁰³ With the lowest or highest bid accepted.



jurisdiction area of the court of appeal except for cases concerning real estate enforcement.¹⁰⁴

A current list of the enforcement agents and search option are available on the National Council official website.¹⁰⁵ The enforcement agent is obliged to keep the circumstances of the case secret. The obligation continues after the dismissal and ceases when the enforcement agent gives a testimony as a witness or party to a court or prosecutor, unless disclosure of the secret threatens the good of the State. In this case, the Minister of Justice may release the enforcement agent from the obligation.

When performing professional duties, he/she has the right to identify persons in order to establish their identity. When carrying out activities outside his/her office, the enforcement agent is required to provide an ID, issued by the National Council. The enforcement agent transfers the claims recovered from the bank account to the creditor within 14 days of their receipt. The enforcement agent transfers the remaining enforced claims to the creditor within four days from the date of receipt. In the case of enforcement of maintenance and disability pensions, the enforcement agent transfers the enforced claim to the creditor immediately. In case of delay, the enforcement agent is obliged to pay statutory interest. The enforcement agent is obliged to submit a declaration of his/her financial standing on personal property and property covered by marital property, which is public, unless the court declares it confidential.

The enforcement agent is not an entrepreneur, may not conduct business activity and may not take up additional employment, except for limited didactic employment. Any occupation that would interfere with the performance of the enforcement agent's professional duties is forbidden. The enforcement agent is obliged to immediately notify the president of the competent district court about a pending court case in which he/she appears as a party or participant in the proceedings and about criminal proceedings. The latter needs to be notified to the Minister of Justice as well. The enforcement agent is obliged to repair any damage caused by unlawful acts or omissions in the performance of their activities. The State is jointly and severally liable with the enforcement agent. The enforcement agent is obliged to conclude a civil liability insurance contract for damages that may be caused while performing professional activities. As for the right to holiday, the enforcement agent is entitled to 26 days of holiday a year.

The enforcement agents are represented at the national level by the National Council of Judicial Officers (Krajowa Rada Komornicza) and at the level of appellate courts by

¹⁰⁴ The creditor has the right to choose an enforcement agent within the jurisdiction area of the court of appeal, in which the registered office of the competent enforcement agent is located in matters referred to in art. 3.3 points 1 and 2a LEA, with the exception of: 1) enforcement of immovable property; 2) the issuance of real estate; 3) the possession of real estate; 4) emptying rooms, including residential premises; and 5) cases in which the provisions on enforcement of real estate shall apply accordingly. When selecting an enforcement agent, the creditor submits a motion with a written declaration that he/she is exercising the right to choose an enforcement agent.

¹⁰⁵ <https://www.komornik.pl/>

regional chambers (11)¹⁰⁶. The enforcement agent is obliged to pay a monthly fee to the professional body.

The enforcement agent is disciplinarily responsible for the following disciplinary offenses:

1. violation of the dignity of the office or other breach of the principles of professional ethics;
2. failure to comply with post-visit, post-inspection or post-inspection recommendations, as well as orders of administrative supervision authorities;
3. unlawful expenditure of funds;
4. taking actions with unjustified delay;
5. violation of the territorial competence rule;
6. failure to proceed with submitted complaints;
7. lack of supervision over employed staff members;
8. unlawful obtaining of information;
9. violation of the principles of exercising the right to absences;
10. refusal to take on the enforcement agent deputy duties;
11. an important or persistent offense against other legal provisions.

Disciplinary penalties include:

1. warning;
2. reprimand;
3. fine from PLN 5,000.00 to PLN 100,000.00;
4. ban on accepting cases of the creditor's choice for a period of 1 to 3 years;
5. suspension in duties for a period of 6 months to 3 years;
6. expulsion from enforcement agent service.

The Penal Code and the Code of Criminal Procedure shall apply accordingly to disciplinary proceedings not regulated in the LEA.

¹⁰⁶ The 11 Regional Chambers are situated in such cities as:

1. Warsaw (<http://www.izba.warszawska.komornik.pl/>)
2. Cracow (<https://www.izba.krakowska.komornik.pl/>)
3. Lodz (<http://www.izba.lodzka.komornik.pl/>)
4. Gdansk (<http://izba.gdanska.komornik.pl/>)
5. Szczecin (<http://izba.szczecinska.komornik.pl/>)
6. Bialystok (<http://izba.bialostocka.komornik.pl/>)
7. Poznan (<https://www.izba.poznanska.komornik.pl/>)
8. Rzeszow (<http://izba.rzeszowska.komornik.pl/>)
9. Lublin (<http://izba.lubelska.komornik.pl/>)
10. Breslau, Wroclaw (<http://izba.wroclawska.komornik.pl/>)
11. Katowice (<http://izba.katowicka.komornik.pl/>).



II.2 Supervision over enforcement

While operating, the enforcement agent is being supervised by the district court and its president. Supervision over enforcement agents includes judicial supervision, administrative supervision, and internal supervision of professional body. District courts issue orders *ex officio* to ensure proper enforcement and remove the observed deficiencies. The administrative supervision authorities are:

- 1) the Minister of Justice;
- 2) the presidents of competent district, regional and appellate courts.

They may request from the enforcement agent's professional body authorities (National Council and 11 regional chambers) information on the members to the extent necessary to carry out statutory tasks.

General supervision activities take various forms, such as office controls and documents' audit. The Minister of Justice supervises the activities of enforcement agents individually and through the presidents of competent district, regional and appellate courts, judges-inspectors and other persons. The supervisory powers of the Minister of Justice include:

- 1) suspension of the enforcement agents' duties;
- 2) dismissal of the enforcement agent from their position;
- 3) instituting disciplinary proceedings;
- 4) undertaking or commissioning other administrative supervision authorities to take actions;
- 5) other measures specified in legal regulations.

Financial supervision over enforcement agents' activities is exercised by the Minister of Justice through their subordinate services and authorized persons and institutions. Administrative supervision is exercised primarily by the president of the competent district court¹⁰⁷ and mostly consists of:

- 1) assessing the speed, efficiency and reliability of proceedings by examining whether there are unjustified delays in taking actions in specific cases;
- 2) controlling the correctness of the enforcement agent's office and accounting;
- 3) examination of work culture.

The presidents of the competent court may among others submit a motion to dismiss an enforcement agent from his/her position and initiate disciplinary proceedings to the Minister of Justice. The enforcement agent is required to submit an annual report of activities, before the 1st of February of each year to the competent supervision authorities.¹⁰⁸

¹⁰⁷ Named by the LEA as: "responsible supervision".

¹⁰⁸ Namely, to the president of the competent court of appeal. They are also required to provide a copy of this report to the president of the competent regional court, the president of the competent district court and the council of the competent enforcement agent's chamber.

The enforcement agent office shall be visited at least once every two years.¹⁰⁹ The National Council, regional chambers and disciplinary spokesperson supervise enforcement agents regardless of the supervision exercised by the Minister of Justice and presidents of competent courts within disciplinary proceedings. The National Council acts through the President and the visiting enforcement agents in the form of office controls and document audit. Disciplinary proceedings take place before the Disciplinary Commission, composed of enforcement agents. An appeal may be lodged before the appellate court.

II.3 Access to the premises

If access to the debtor's premises is necessary in order to carry out the enforcement procedure, the enforcement agent is entitled to take all necessary actions in order to enforce an enforceable title. One of the important provisions determining the powers of enforcement agents during their activities states¹¹⁰ that if the purpose of enforcement requires it, the enforcement agent shall order the apartment and other rooms and storage spaces of the debtor to be opened¹¹¹ and they shall search debtor's belongings, housing and storage spaces. This occurs when the enforcement agent cannot effectively carry out enforcement for various reasons, such as refusal of the debtor to make space available or to hand over requested items.

When necessary, the enforcement agent may also search the clothing the debtor is wearing, especially when the debtor wants to leave the space or if suspected of wanting to remove items from enforcement. Searching the clothes is allowed if previously mentioned methods have not resulted in satisfying the creditor's claim, the written permission of the competent president of the district court has been obtained (unless the search takes place at the place of residence, business, establishment or farm of the debtor). However, in urgent cases this authorization may be obtained later. If, during enforcement activities in the debtor's apartment, the enforcement agent notices that the debtor has given the searched items to his/her household members or another person to hide, he/she may search the clothing and items of that person.¹¹²

The forced opening of the debtor's premises, which in practice means the locks being rebounded by a locksmith, and entry inside do not require a separate decision of a court or other authority. In the absence of the debtor or his/her household members the forced opening should be done in the presence of police officers. The powers of enforcement agents in this respect result directly from the provisions of law and the enforceable title.¹¹³

¹⁰⁹ The schedule of the office's visit is established once a year by the Council of the competent regional chamber.

¹¹⁰ Art. 814 CCP.

¹¹¹ In practice, the enforcement agents call for a locksmith to be assisted with opening the door of the house or apartment or a safe.

¹¹² The search must also be carried out by a person of the same sex.

¹¹³ An enforceability clause clearly and precisely indicates that the title entitles the holder to perform enforcement and instructs all authorities, offices, and persons to whom it may apply to provide assistance.

II.4 Obstructing the judicial officer from carrying out enforcement

The application of coercive measures often involves the need to perform activities in the presence of police officers. And this, in turn, is associated with the fact that enforcement costs - incurred, as a rule, by the debtor - can increase significantly.¹¹⁴ A fixed fee of 25% of the average monthly salary shall be charged for all activities involving the Police, Military Police, military law enforcement agencies, the Border Guard and the Internal Security Agency requested by the enforcement agents while performing enforcement activities. This means that unnecessary resistance, which is the basis for calling for help from the Police¹¹⁵ - not only will unnecessarily lengthen the activities, but will also add costs for the debtor to pay.

It should be mentioned that the application of the coercive measures¹¹⁶ is a "last resort". This means that if the debtor complies with the enforcement agent's requests¹¹⁷, there is no need to use coercive measures by the enforcement agent. If the creditor or the court ordering ex officio enforcement or an authorized body requesting enforcement do not indicate the property allowing satisfaction of the benefit, the enforcement agent may request the debtor to submit explanations.

In order to oblige the debtor to submit a comprehensive list of assets, specifying their location, the claims and other property rights, it is necessary for the creditor to submit an application for disclosure of property to the court of the debtor's general jurisdiction.¹¹⁸ The enforcement agent sending a request for clarification should specify the deadline for submission and possible sanction for failure to do so.¹¹⁹

II.5 Time of enforcement

Since the enforcement agent's working time is determined by the dimension of his/her tasks, he/she adapts the days and hours of customer receptions to local conditions. Office customer opening days and hours are to be approved by the president of the competent district court. The enforcement agent provides information on the dates and opening hours at an information board located at the entrance of the office. In urgent matters, the enforcement agent may receive clients at a different time, if an urgent party's interest requires immediate assistance by the enforcement agent.¹²⁰

The new legal framework that applies from 1 January 2019¹²¹ does not indicate specific time limitation for judicial officer's activities, contrary to the previous one¹²².

¹¹⁴ Art. 57 LEAE.

¹¹⁵ Art. 765 CCP.

¹¹⁶ Article 814 CCP.

¹¹⁷ For example, he/she presents the requested documents or opens the rooms indicated by the enforcement authority

¹¹⁸ Art. 913 CCP in connection with art. 914 CCP.

¹¹⁹ Art. 762 CCP. For an unjustified refusal to provide the enforcement authority with explanations or information or for providing information or explanations that are knowingly false, the enforcement agent may fine the debtor up to two PLN 2000.00.

¹²⁰ Art. 30 LEA.

¹²¹ Law of 22 March 2018, LEA.

¹²² Art. 18 and 19 LEAE.



However, a CCP provision¹²³ indicates that enforcement agents may perform activities outside the office on business days, from 7 to 9 p.m. For the performance of activities on public holidays or during night hours the consent of the president of the competent district court is required. However, the activities started before 9 p.m. may be continued without this consent if their interruption may significantly hinder the execution, unless these activities are carried out at the debtor's place of residence. In this case, the activities may be carried out if this place is used by the debtor to perform economic activity.

As for eviction, the law strictly defines a protection period against eviction. The tenant protection period lasts from 1 November to 31 March.

II.6 Mediation

The Polish enforcement agent is not empowered to act as a mediator. The Polish legislator believes that enforcement procedure cannot be combined with mediation activity. Therefore, mediation activity should not be carried out by the same entity. According to a general rule, the enforcement agent may act only on the basis of the enforceable title.¹²⁴ He/she is not allowed to use any soft-enforcement measures.

PART III: ENFORCEMENT PROCEDURES

III.1 Initiation and end of the enforcement procedure

As a rule, the compulsory judicial enforcement of a decision is only carried out based on an enforceable title. However, there are some exceptions to this rule. An enforceable title is a writ of execution with an enforceability clause, unless the law provides otherwise.¹²⁵ The court of first instance grants a writ of execution with the enforceability clause immediately at the creditor's request, but not later than within three days from the date of application submission.¹²⁶ The court may also act *ex officio* when:

- an enforceability clause concerns writ of execution issued in proceedings which have been or could have been initiated *ex officio*, as well as
- when it imposes a fine or a financial penalty in civil proceedings or court costs in civil matters that have been adjudicated in favour of the State.

A payment order issued in (via) electronic proceedings is granted *ex officio* with enforceability clause, immediately after becomes final.

The court of second instance grants an enforceability clause as long as the case file is present in this court.¹²⁷

¹²³ Art. 810 CCP.

¹²⁴ See Chapter I.2 Enforceable titles.

¹²⁵ Art. 776 CCP.

¹²⁶ Art. 781¹ CCP.

¹²⁷ However, this does not apply to the Supreme Court and in some specific cases. Concerning writ of execution issued by the administrative court and other entities, an enforceability clause is granted by the district court of the general competence where the debtor's domicile is located. If this cannot be determined, the clause is given by the district court, where the enforcement is to be initiated and

There are three possible ways to initiate execution proceedings: on request,¹²⁸ *ex officio*¹²⁹ and on demand of the competent authority¹³⁰. The most common way of initiating execution proceedings is upon the request of the creditor. Usually, the motion to initiate execution proceedings is submitted by the creditor to whom the enforceable title refers. However, it may be also submitted on their behalf:

- by the prosecutor;
- by any other authority operating on the same terms as the prosecutor; or
- by a voluntary organisation.

The motion to initiate execution proceedings should be delivered by the creditor to the court or to the enforcement agent.¹³¹

The motion to initiate execution proceedings may be submitted in writing (this is the most common method and there is an official motion form that may be used) or orally to be entered in the records. When in writing, it should be submitted to the office of the competent enforcement agent or sent by post (the date of submission is the date of posting)¹³². Failure to comply with the formal conditions, which makes further steps impossible, will result in a call to make up for the deficiencies.¹³³

The enforcement agent's competence is based on the provisions of the CCP. In general, the creditor has the right to choose an enforcement agent within the jurisdiction of the court of appeal. In this case, the motion should be accompanied by a written statement on the selection of an enforcement agent.¹³⁴ The selection of an enforcement agent is excluded in cases of enforcement of real estate, the issuance of real estate, the possession of real estate, the emptying of premises, including residential premises, from persons or things and in cases in which provisions on enforcement of real estate shall apply accordingly. Only the enforcement agent operating at the district court in whose district the property is located is competent to conduct enforcement in such cases.¹³⁵

The motion submitted in writing should satisfy conditions required from statements of claim. The formal requirements for such motion include indicating the creditor and the debtor, and the motion must specify:

when the creditor intends to initiate enforcement abroad by the district court in whose district the writ was issued.

¹²⁸ Art. 796 sec. 1 CCP.

¹²⁹ Art. 796 sec. 2 CCP.

¹³⁰ Art. 796 sec. 3 CCP.

¹³¹ Art. 796 sec. 1 CCP.

¹³² Posting a letter in the Polish post office of an operator legally designated or in the post office of an operator providing universal postal services in another Member State of the European Union is tantamount to bringing it to an enforcement agent. Art. 165 sec. 2 CCP in connection with Art. 13 sec. 2 CCP.

¹³³ Article 130 sec. 1 CCP in connection with Article 13 sec. 2 CCP.

¹³⁴ Article 10 (3) LEA.

¹³⁵ In accordance with art. 10 sec. 1 LEA.



1. The enforcement agent's data;¹³⁶
2. The creditor's data;¹³⁷
3. The creditor's legal representative or proxy;
4. The debtor's data;¹³⁸
5. The enforced claim.
 - I. Enforceable title
 - a) Writ of execution type;
 - b) Information on the enforceability clause.
 - II. Monetary claims details¹³⁹
 - III. Non-cash benefits (in the event of seeking this type of benefit)
 - a) Description of the benefit: which benefits are to be enforced in accordance with the enforceable title (e.g., delivery of goods, emptying of premises), property components of the debtor from which enforcement of cash benefits is to be carried out.

However, indication of the debtor's assets by the creditor is not mandatory. If not indicated, the enforcement agent is obliged to determine it. If the creditor or the court ordering *ex officio* the enforcement or the authorized body requesting the enforcement do not indicate the property allowing for satisfaction of the benefit, the enforcement agent *ex officio*: i) determines the debtor's assets to the extent known to him/her from other proceedings conducted either on the basis of publicly available sources of information or registers to which he/she has electronic access; ii) calls on the debtor to submit a list of assets.

The initiation of enforcement of real estate, cooperative ownership rights to premises, perpetual usufruct, fractional parts of real estate or a seagoing vessel entered in the ship's register is only permitted at the creditor's request. The creditor may also request enforcement only from the assets listed in the motion.

- b) Property of the debtor.¹⁴⁰

¹³⁶ Name, surname, district court, office's address, Court description.

¹³⁷ Name, surname, address, ID number or Tax Number, **National Court Register Number (for legal entities)**, correspondence address entered in the Central Register and Information on Economic Activity (if the creditor is an entrepreneur entered in the register), creditor's address for service of documents, bank account number, additional details needed for the bank transfer. If the account number is not provided, the funds will be transferred by postal order.

¹³⁸ Name, surname, address, ID number or Tax Number, **National Court Register Number (for legal entities)**, correspondence address entered in the Central Register and Information on Economic Activity (if the creditor is an entrepreneur entered in the register) – if known.

¹³⁹ Principal due, interests type and period, costs of court proceedings, costs of clause proceedings, other receivables.

¹⁴⁰ Indication of the property from which enforcement is to be carried out, its location and address; the number of the land and mortgage register and the court keeping the land and mortgage register should be indicated; it should also be indicated whether the claimed debt is secured by a mortgage established on the described property.

c) Other assets of the debtor from which enforcement is to be carried out.

The motion must be signed by the creditor.

If it was not possible to determine the assets allowing satisfaction of the claim by the means indicated above, the creditor may order the enforcement agent to search for the debtor's assets by submitting formal request in writing.¹⁴¹

The motion for enforcement or request for ex officio enforcement enables enforcement to be carried out in all permissible ways, except for the real estate enforcement, which is possible only at the creditor's request. The enforcement agent applies the method of enforcement least burdensome for the debtor. If the enforcement of one part of the debtor's property is sufficient to satisfy the creditor, the debtor may request the suspension of the enforcement for the remaining part of the property.¹⁴²

III.2 Enforcement against movable assets to settle pecuniary claims

There is no legal definition of movable property. The Civil Code¹⁴³ only provides a definition of real property.¹⁴⁴ Therefore, anything that is not real property, or its part, is assumed to be movable property.¹⁴⁵ The provisions regarding enforcement of movable property shall apply accordingly for the enforcement of animals, only if this does not conflict with the provisions on animal protection.¹⁴⁶

As a general rule, enforcement of movable property is conducted by an enforcement agent under the general rules on competence on the basis of the debtor's domicile. However, if the debtor is not domiciled, resident or possesses no branch in the territory of the Republic of Poland, enforcement procedures are to be carried out by the enforcement agent operating at the court that has jurisdiction over the location of the movable property.¹⁴⁷ An enforcement agent who has initiated enforcement of certain movable property remains competent to carry out enforcement of the debtor's other movable property, even if it is located within the district of another court.¹⁴⁸

The enforcement agent proceeds to the enforcement of the debtor's movable property through attachment.¹⁴⁹ However, if the circumstances revealed in the case

¹⁴¹ The fee is PLN 100.00 on each single request.

¹⁴² Art. 799 CCP.

¹⁴³ Art. 46 sec. 1 CC.

¹⁴⁴ Which may take form of land, buildings permanently attached to the land and parts of such buildings, if under special detailed legislation they constitute property separate from the land.

¹⁴⁵ The following are not movable property: liquids and gases in the unbound state (water, air), unextracted mineral deposits, wild animals living at large (however when domesticated they change their status and become movable property), personal property, goods that are subject to copyrights, trademarks, energy, goods specified in the industrial property law.

¹⁴⁶ Art. 844¹ CCP.

¹⁴⁷ Art. 844. sec. 1. CCP.

¹⁴⁸ The enforcement agent chosen by the creditor and the enforcement agent who has initiated enforcement of certain movable property is obliged to notify of the seizure an enforcement agent operating at the district court in whose district the movable property is located.

¹⁴⁹ Art. 845. Sec. 1. CCP.



indicate that such property does not constitute the debtor's property, they may not be subject to attachment. The movable property may be seized either in possession of the debtor or in possession of the creditor. The debtor's movable property belonging to a third party can be seized if the person agrees or admits that it is the property of the debtor. In the event of enforcement of maintenance (alimony claim), an enforcement agent may also seize movable property owned by a person residing jointly with the debtor without that person's consent, unless they provide proof that the movable property belongs to them. The enforcement agent may also presume that the item is at least in the possession of the enforced debtor and, therefore, may perform enforcement seizure if the movable item is in an apartment or other place occupied by the debtor together with the third parties.¹⁵⁰

The enforcement agent may estimate the value of the movable property or call an expert, if necessary or obliged by law. On each seized movable property, the enforcement agent shall place a mark revealing occupation and, if this is not possible, he/she shall reveal the seizure in another way.¹⁵¹ As a rule, seized movable property is left into custody of the person from whom it was taken. Only for important reasons the enforcement agent may, at any state of the proceedings, hand over seized movable property to another person, including the creditor, who performs duties of a caretaker. The sale of seized movable property may not take place earlier than after two weeks from the day the attachment became final. There are some exceptions¹⁵² when the sale may take place immediately after attachment (e.g., the movable property is easily damaged, or its storage would result in excessive costs).

The enforcement agent can sell movable property by private treaty if the debtor agrees and set a minimum sale price. The sale can take place if none of the creditors object within a week (three days, in case of special movable property¹⁵³). The enforcement agent may sell movables that are either used or unused by private treaty. The consent of the debtor and creditor to sale by private treaty should be given in writing; it may also be made orally and mentioned in the protocol drawn by the enforcement agent. CCP provisions do not indicate the exact way the debtor establishes the minimum and maximum purchasing price. There are also specific regulations concerning specific movable types, such as unused movable property which is the object of commercial trading or requires a special permit.

The seized movables that have not been sold by private treaty are sold by the enforcement agent by way of a public auction. The auction shall be announced publicly in the building of the district court competent for the place of the auction and on the website of the National Enforcement Agents Council.¹⁵⁴ The starting price in the first public auction is three-quarters of the estimated value. If the auction does not take place on the first date, the movable property may be sold on the second date.

¹⁵⁰ S.C. decision 15 December 1991 r. (IV CR 550/90).

¹⁵¹ Art. 854 CCP.

¹⁵² Art. 864. sec. 1 CCP.

¹⁵³ In the case of specified movables listed in art. 864 sec. 2 CCP.

¹⁵⁴ <https://licytacje.komornik.pl/>

The call price in the second bidding period is half of the estimated value. Auction sale cannot take place at a price lower than the calling price. The enforcement agent shall announce the auction to the debtor not later than one week before the beginning of the auction.

The person entering the tender is obliged to submit a warranty of the amount of one tenth of the estimated sum, not later than on the day preceding the tender. However, the warranty is not lodged if the estimated sum is less than PLN 5,000.00. The warranty given by the bidder to whom the decision granting ownership was issued shall be included in the sum to be paid. The warranty is returned immediately to the other bidders. If the buyer has not complied with the bidding conditions regarding the payment of the price, he/she loses the warranty and the effects of decision granting ownership expire. The lost warranty covers the costs of execution related to the sale, and the rest is included in the sum obtained in the execution, or if the execution was discontinued, it is transferred to the State income.

Bidding takes place in public. The debtor, the enforcement agent, their spouses, children, parents and siblings, persons present at the auction as an official and the bidder who has not fulfilled the conditions of the previous auction may not take part in the tender. The presence of one bidder is enough to complete the tender. The bid is no longer binding when another bidder has bid a higher price. The enforcement agent shall adjudicate the highest bidder to the person offering the highest price if no one has offered higher bidder after three summonses (calls) for further increments. The sale of movable property to the buyer takes place at this moment.

The creditor or debtor may appeal against the decision granting ownership. The buyer is obliged to pay the purchase price immediately. However, if the purchase price exceeds PLN 5,000.00, the obligation of the buyer is limited to submitting immediately one fifth of the price, not less than PLN 500.00, while the rest of the price, including the warranty, is paid at the enforcement agent's office or at enforcement agent's bank account until 6 pm of the next day. If this day falls on a Saturday or a public holiday, the price shall be paid the next day after the day or days off. The buyer who does not pay the price in whole or in part within the prescribed period, loses the rights arising from the decision granting ownership.

The buyer becomes the owner of the purchased movable property after the decision granting ownership becomes final and the entire price has been paid. If the court refuses the adjudication, the paid purchase price will be refunded. Anyone who purchases an item following the procedure indicated above becomes its owner without charge and should immediately collect it.

III.2.1 Sale by electronic auction

The e-bidding system¹⁵⁵ was made public on 28 February 2020. The system is run by the National Council. It was created in order to enable electronic bidding by enforcement agents of items seized in enforcement and in other proceedings to which

¹⁵⁵ <https://elicytacje.komornik.pl/>



the provisions of the auction apply accordingly.¹⁵⁶ According to the CCP provisions, the enforcement agent shall sell seized movable property via electronic auction only at the request of the creditor. Such an application may be submitted before the date of the auction is set or together with an application for the second date. To protect the auctioned movable property against any undesirable actions of the debtor, each item subject to e-auction shall be put into the custody of a person other than the debtor or into court deposit.

The electronic bidding notice shall be placed in the building of the competent district court, but also in the IT system created and supervised by the National Council of Enforcement Agents. The system is free for the customers. The auction may last seven days in principle and may be extended by the enforcement agent if necessary. In the case of easily damaged movables¹⁵⁷ the duration of the auction is at least two days. Admission, notification of participants, as well as any waiver of the item obtained by the buyer shall be made electronically.

The person entering the tender submits a warranty via the IT system. A warranty may also be submitted to an enforcement agent who confirms this in the IT system. Electronic bidding begins at the time specified in the electronic bidding notice and ends at the time indicated by the enforcement agent. Immediately after the end of the electronic auction, the enforcement agent issues a decision granting ownership to the person having given the highest price at the time the electronic auction ends.

Adjudication is granted via the IT system and the enforcement agent notifies the creditor and the debtor about it. Notification is delivered to bidders via the IT system. Waiver of the purchase of movable property is made solely via the IT system. The buyer is obliged to pay the purchase price on the day following the delivery of the notice of adjudication.

The creditors are satisfied with the sum obtained from the sale and enforcement costs are deducted from it. The final stage shall be the distribution of the sum obtained from the concluded procedure. The enforcement agent prepares the distribution plan for the sum obtained from the concluded enforcement procedure as soon as the money appears on the court's deposit account. The creditors are satisfied in the order determined by the CCP provisions, which set out the hierarchy of individual categories of claims. The draft distribution plan must be presented to the court, which may amend or approve it. It should indicate, among others, what amount will be distributed, claims and persons participating in the division and the sums given to each of the creditors.

The debtor and the persons who participate in the division should be notified of the preparation of the plan. They have the right to raise objections against the division plan within two weeks' time after being notified. The charges are decided by the court. After the court decision becomes final, the division plan is implemented.

¹⁵⁶ Electronic auctioning of movable property, which is carried out via the IT system, is regulated by the general provisions, with differences resulting from art. 879¹ - 879¹¹ CCP.

¹⁵⁷ Listed in art. 864 sec. 2 CCP.

III.3 Attachment on the bank account of the debtor

The attachment of a bank account is one of the most common activities performed by the enforcement agent within the monetary claim enforcement procedure. In order to enforce receivables from a bank account, the competent enforcement agent of the debtor's domicile:

- 1) Sends to the bank in which the debtor has an account a notification of attachment of the debtor's financial claim from the bank account up to the amount being the subject of the enforcement, together with enforcement costs. The enforcement agent also orders the bank not to make payments from the account without the consent of the enforcement agent up to the amount of the claim or to notify the enforcement agent within seven days of an obstacle to the transfer of the seized sum. The notification of the attachment of the debtor's financial claim from the bank account is also effective if the bank account is not indicated.
- 2) Notifies the debtor about the attachment of his/her debt from the bank account, providing him/her with a copy of the notification addressed to the bank about the prohibition of withdrawals from the bank account.
- 3) Simultaneously, the enforcement agent sends to the creditor a copy of the notification sent to the bank.

If the bank account has been seized within two or more enforcement proceedings, and the amount on the account is not sufficient to satisfy all creditors, the bank shall withhold payment of the sums seized, notifying the competent enforcement agent. The bank pays the seized receivables after all cases are transferred to one enforcement agent, who carries out further enforcement.

If an attached bank account is in foreign currency, the bank shall transfer to the enforcement agent the amount due in Polish currency converted at the rate of purchase of the foreign currency in which the account is kept, announced by the National Bank of Poland on the day of transfer of the amount due to the enforcement agent, unless the enforceable title includes a cash benefit that is only met in the foreign currency in which the bank account is kept. The bank transfers cash from the seized account to the enforcement agent's bank account immediately after seven days from the date of delivery of the attachment notice. However, in the event of the enforcement of ongoing maintenance or pensions, the bank is obliged to make immediate transfer. The enforcement agent must transfer the recovered funds from the seized bank account to the creditor no later than within 14 days.

The attachment of the debtor's bank account is effected upon delivery of a notice prohibiting withdrawals from that account to the bank. The attachment also includes amounts which were not on the bank account at the time of its attachment, and which entered into the account after the attachment was made. However, the attachment of claims from a bank account does not include the amounts excluded from it, such as benefits, family supporting and foster care allowances. In practice, special bank accounts are provided for the benefits that are excluded from the enforcement, such as PLN 500.00 and child support benefit. If there are benefits excluded from the

enforcement within the amount of the attached bank account, the debtor must notify the enforcement agents and file a request for exemption from enforcement such sums.

The prohibition of withdrawals from the seized account does not apply to current payments for remuneration for work together with taxes and other statutory burdens and for imposed maintenance and alimony pensions awarded as compensation - up to the amount of the average monthly salary.

The payment for remuneration for work takes place after the enforcement agent receives a copy of the payroll or other reliable proof and the payment for maintenance and alimony pensions is made based on an enforceable title stating the debtor's obligation to pay alimony or pensions. The bank shall make these payments only based on an enforcement agent 's permit. Payments for maintenance and alimony pensions are made to the person entitled to these benefits.

In the event of convergence of judicial and administrative enforcement, if the amounts on the bank account are not sufficient to cover all amounts enforced, the bank shall make payments from this account to the judicial or administrative enforcement authority that first seized, when impossible to determine this priority - for the authority which made attachment for a higher amount of receivables. Based on an enforceable title issued against a married debtor, enforcement may be carried out from the joint account of the debtor and his/her spouse.

However, this does not exclude the possibility of defending the debtor's spouse by way of an action for exemption from enforcement (interpleader claim), if the joint account of the spouses accumulated funds do not enter into the personal property of the debtor.¹⁵⁸

The situation is different for the other co-owners of the account. Third party shares may be exempted from attachment. The amount of the shares in a joint account shall be determined on the basis of the bank account agreement, which the debtor is obliged to submit to the enforcement agent within one week from the date of attachment. If the agreement does not specify participation in the joint account or if the debtor does not submit the agreement, it is assumed that the shares are equal.

After determining the debtor's share, the enforcement agent releases the remaining shares from the attachment. A bank that has violated the provisions regarding the obligations concerning the enforcement of the bank account is responsible for the damage caused to the creditor. Employees of the bank responsible for unlawful withdrawals from a seized bank account shall be fined.

In practice, to make an attachment of a bank account, the enforcement agent must first determine in which bank the debtor has the account. Sometimes the creditor already indicates such information in the motion for enforcement. The enforcement agent may also request such data by electronic means (through the OGNIVO system)

¹⁵⁸ This also applies to funds that do not come from the remuneration for work collected by the debtor, income obtained by the debtor from other activities, as well as benefits derived from his/her copyright and related rights, industrial and intellectual property rights.

via the National Clearing House. Recently, enforcement agents are able to direct queries and requests concerning the debtor's bank accounts (via banks) to the Central Account Information, to obtain account numbers for all accounts held by the debtor - not only at commercial or cooperative banks, but also at Cooperative Savings and Credit Unions.

Finally, the enforcement authority may otherwise determine the bank that maintains the debtor's account - e.g., through fieldwork¹⁵⁹ or a query directed to the debtor-entrepreneur's accounting office¹⁶⁰. Having this information, the enforcement agent may proceed with the attachment, which in the case of banks (including cooperative banks) takes the form of an electronic notification with a secure qualified electronic signature. However, some accounts may still be attached only by traditional ("paper") notification.

If the debtor has several accounts in the bank all of them remain occupied up to the amount of debt in the ongoing enforcement proceeding. However, not all the money that is on the seized bank account by the enforcement agent will be transferred to the enforcement agent. By law, the following are exempt from attachment: maintenance payments, cash benefits paid in the event of ineffective enforcement of maintenance, family benefits, family, nursing and childbirth allowances for complete orphans, carer's allowances, social assistance benefits, integration benefits, parental benefit. In addition, funds up to 75% of the minimum remuneration for work are free from attachment. Therefore, the current limit is PLN 1,500.00 and is being renewed every month. If the debtor conducts business, funds for paying salaries to his employees are also exempt from the attachment.

The ban on withdrawals from a sized account does not apply to current payments for remuneration for work together with taxes and other statutory burdens as well as for imposed maintenance and alimony pensions awarded as compensation - up to the amount of average monthly salary.

III.4 Enforcement against savings deposits and current accounts

See III.3.

III.5 Enforcement on immovable property

One of the types of enforcement of cash benefits is enforcement of real estate property. As a rule, the enforcement agent must carry out the enforcement procedure in a manner that is least burdensome for the debtor. An application for initiating enforcement proceedings or a request for ex officio enforcement enables the enforcement agent to carry out all the methods of the enforcement procedure, except for the real estate enforcement, which is only possible at the creditor's request. Real estate are parts of land surface that constitute separate property subjects (land), as well as buildings permanently fixed to the ground or their parts, if, under specific regulations, they constitute a separate subject of ownership. Property execution is the duty of the enforcement agent attached to the court in whose jurisdiction the

¹⁵⁹ Search of the debtor's apartment or other premises.

¹⁶⁰ Art. 761 CCP.

property is located.

When real estate execution takes place, the legal provisions do not allow to select the enforcement agent. If the property is located in a district of several courts, the choice of the enforcement agent is up to the creditor. However, proceedings initiated at the request of one creditor will be combined with proceedings initiated at the request of other creditors. To this end, the enforcement agent who commenced the enforcement procedure will notify any other competent enforcement agent of the initiation of the enforcement procedure. The enforcement agent also notifies the court having jurisdiction over the location of the immovable property about commencing and completing the enforcement.

If the enforcement of one part of the debtor's property is obviously sufficient to satisfy the creditor, the debtor may request the suspension of the enforcement of the remaining part of the property.¹⁶¹ Currently a draft Anti-Liaison Law that provides a ban on enforcement of real estate when a debt is less than 1/20 of its value is pending.¹⁶² In order to secure the rights of an individual whose place of residence is unknown, and who - due to absence - cannot receive notices, the court establishes a trustee to represent the absent party, upon application from an enforcement agent. The trustee shall perform the duties also in the interest of other individuals who cannot receive notices, during the ongoing proceedings. The trustee may, however, represent several individuals jointly only when their interests do not collide.

Execution of real estate encompasses:

1. real estate execution;
2. simplified real estate execution;
3. fractional real estate execution.

Regulations concerning real estate execution are respectively applicable to:

1. perpetual usufruct execution;
2. execution of premises constituting a separate property;
3. execution of cooperative member's right of ownership of premises;
4. execution of sea vessels listed in a ship register;
5. execution by means of vending a company or farm.

As a general rule, the act initiating the enforcement procedure is the creditor's request, which should be submitted to the competent enforcement agent (depending on the real estate location). The enforcement agent calls on the debtor to pay the debt within two weeks' time of receiving the summons. The real estate property belonging to the debtor is attached upon delivery of the summons to the debtor. Simultaneously, the enforcement agent sends to the court keeping the land and mortgage registers or land documents collection an application for entry on enforcement procedure

¹⁶¹ Art. 799 CCP.

¹⁶² <https://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=3600>

initiation. As soon as such entries are made, the property is seized against third parties.

The subject of the performed attachment shall not only be real estate property, but also everything which according to property law is subject to mortgage encumbrance.¹⁶³ It is important to stress out that all the real estate disposals (and disposals subject to attachment) are void if they occur after the attachment has been made. The buyer may participate in the proceedings as a debtor. Each time, the execution proceedings are valid both with respect to the debtor and the buyer. Also, any property encumbrances made after the attachment has been established have no legal effects. As a rule, the debtor becomes the property administrator.¹⁶⁴

The administrator may also be a third party appointed by the court. The administrator acts within the enforcement procedure in his own name, but on someone else's account, therefore they may sue and be sued concerning matters arising from the property management.¹⁶⁵ The administrator has the right to collect all kinds of income and benefits from the seized real estate, which he/she shall allocate for enforcement costs and current receivables. The administrator is obliged to deposit on the court's deposit account any surplus income. At least once a year, he/she is obliged to submit accounting reports on his activities to the court.

Once the property is seized and the debtor has been requested to pay, the enforcement agent proceeds to the next stage of the property enforcement proceedings, which is the description and assessment of the property. When sending a request for payment to the debtor, the enforcement agent indicates that if the debtor fails to pay the debt within 2 weeks' time, the property shall be subject to the enforcement procedure phase concerning description and value estimation. When applying for a description and assessment, the creditor should provide the enforcement agent with the necessary documents.¹⁶⁶ The enforcement agent initiates these two actions at the request of the creditor, which should be attached with an extract (and if necessary - an excerpt) from the land and mortgage register or a court certificate, which indicates the owner of the property and its encumbrance. The creditor should also indicate the place of residence of the participants in the proceedings.

The main purpose of this stage of enforcement proceedings is to establish the condition of the property, determine its technical condition, location, surrounding infrastructure, destination of the property, determine its components and affiliation, as well as the liabilities that encumber the property. Determining the above

¹⁶³ There may be large group of participants in the ongoing proceedings. Apart from the creditor and the debtor, there may be also persons who are entitled to limited rights in rem or claims or personal rights secured on real estate and, when the subject of enforcement is perpetual usufruct, also the entity which concluded the perpetual usufruct contract (Art. 929 sec. 1 CCP).

¹⁶⁴ However, in case of immovable enforcement this is obligatory, whereas custody institution is optional.

¹⁶⁵ Art. 935 sec. 1 CCP.

¹⁶⁶ Art. 943 CCP.



information allows the real estate value estimation and enables to determine the group of entities that should be notified about the ongoing enforcement proceedings. The creditor may submit a request for description and assessment already in the enforcement application. The application may be submitted in writing or orally for the record. However, the application submitted in writing should meet the requirements of pleadings submitted in court proceedings. All the participants in the proceedings on the description and estimation shall be directly notified by the enforcement agent and, if this is impossible (e.g., they are not known or nothing is known about their place of residence), the enforcement agent calls them to participate in the proceedings through a public announcement.

Estimates are made by an expert appointed by an enforcement agent.¹⁶⁷ Not later than when making the description and estimation, the creditor or debtor has the right to submit an application that only part of the property is put up for auction if the price of the call would be sufficient to satisfy the creditor; this may also happen ex officio. The description and estimation can be appealed and the deadline is estimated from their completion.

As a rule, the seized property is sold by means of public auction,¹⁶⁸ which may take place no earlier than two weeks after the description and estimation has become final and should be announced. The auction notice should be served to the participants in the proceedings, as well as to the competent municipal and tax office authority. The announcement of the auction should be published at least two weeks prior to its date on the website and notice board of the court supervising the ongoing enforcement procedure, in the premises of the competent municipality and on the website of the National Council.¹⁶⁹

At the request and expense of the party, the enforcement agent may order the advertisement also in another way indicated by him/her, in particular in a daily local newspaper. The public announcement should indicate:

1. The property to be sold;¹⁷⁰
2. The bidding time and venue;
3. The valuation sum and reserve price;
4. The value of the bid bond that the bidding participant should submit;
5. The period during which the property can be visited two weeks before the bidding and during which documents from the execution proceedings can be checked in the court.

¹⁶⁷ Art. 948 CCP. The expert's estimation should separately indicate the value of real estate, buildings and other equipment, belongings and benefits, the value of the whole as well as the value of a part of the real estate.

¹⁶⁸ Art. 953 CCP.

¹⁶⁹ <https://licytacje.komornik.pl/>

¹⁷⁰ Indicating its location and economic designation, name and surname of the debtor with the land register number and its storage location, or with the heading in the document collection, defining the court with which this collection is held.

The property can be acquired even before the auction. The CCP provisions state that a co-owner of a property belonging to a farm may take ownership of the property up to the third day before the auction at a price not lower than the sum of the estimate. When applying for takeover, the applicant should submit a warranty, unless the law releases them from this obligation. If several co-owners apply for takeover, priority is given to the one who runs a farm or works on it. If this condition is met by several co-owners or none of them, the court shall give priority to the co-owner who gives the best guarantee of proper running of the farm. The decision on priority is taken by the court. Also, if no one has entered the auction, the co-owner of this agricultural property may purchase it at a price not lower than three-quarters of the sum of the estimate if reports within one week of the auction.

The next stage of enforcement of real estate is bidding (also called a tender). Bidding takes place publicly and orally in the presence and under the supervision of a judge or legal secretary. The course of the auction shall also be recorded by means of a sound recording device or image and sound. As a rule, whoever wishes to enter the tender must submit a warranty of one-tenth of the sum of the estimate. However, there are a few exceptions.¹⁷¹ The sum is refundable to the participants except for the tender winner. In this case the warranty sum is credited towards the sum for which the property will be purchased. The lowest sum for which the property can be purchased at the first auction (call price) is three-quarters of the sum of the estimate.¹⁷²

Moreover, the circle of persons who may participate in the tender is not open. The following persons may not participate in the tender: the debtor, the enforcement agent, their spouses, children, parents and siblings as well as persons present at the auction in an official capacity, the bidder who did not comply with the conditions of the previous auction, persons who can purchase property only with permission from a state body, and the permit has not been submitted.¹⁷³

The appearance of one bidder is enough for the tender. The bid price ceases to be binding when another bidder has bid a higher price. The tender ends when the bidding stops; it cannot be less than 1 percent of the call price. The enforcement agent should warn those present that "after the third announcement no further proceedings will be accepted", then he/she will announce the price which has been proposed three times recently. The next auction may take place at the request of the creditor, submitted once the decision on the expiry of the adjudication has become final. The call price in this case is two-thirds of the sum of the estimate. If the second tender does not take place, the enforcing creditor or mortgage creditor and co-owner may purchase ownership of the property at a price not lower than two-thirds of the sum of the estimate. If none of these entities take over the property, the proceedings shall

¹⁷¹ The person who is entitled to the right disclosed in the description and estimation does not submit a warranty, if its value is not lower than the amount of the warranty and if it is covered by the call price together with the rights stated in the description and estimation up to this amount, enjoying priority over their right.

¹⁷² Art. 965 CCP.

¹⁷³ Art. 976 sec. 1 CCP.

be discontinued, and they can be re-initiated after at least a year.

During the entire auction, one can report verbally a complaint about the enforcement agent's activities to the supervising judge. The complaint is resolved immediately. After the closing of the tender the judge issues the appropriate decision on granting the adjudication (ownership) to the bidder who offered the highest price. However, the court will refuse to adjudicate due to a violation of the rules of procedure during the auction, if these shortcomings could have had a significant impact on the outcome of the tender. The person who obtained final decision on adjudication, after performing other bidding conditions, obtains the right to ownership of the property.¹⁷⁴

Then the relevant changes take place in the land and mortgage register for the real estate and the real estate cadastre. As soon as this provision becomes final, all rights and consequences of disclosure of the rights and personal claims of the property shall expire.¹⁷⁵ The buyer of a real estate, on the other hand, enters into the debtor's rights and obligations that arise from the rental or tenancy relationship.

The final stage of the real estate enforcement procedure is the distribution of the sum obtained from the concluded procedure.¹⁷⁶ The enforcement agent prepares the plan for the distribution of the sum obtained from the concluded enforcement procedure as soon as the money appears on the court's deposit account. The draft distribution plan must be presented to the court, which may amend or approve it. It should indicate¹⁷⁷, among others, what amount will be distributed, claims and persons participating in the division and the sums given to each of the creditors. The debtor and persons who participate in the division should be notified of the preparation of the plan. They have the right to raise objections against the division plan within two weeks' time of being notified. The charges are decided by the court. After the court decision becomes final, the division plan is implemented. There is also a simplified procedure of real estate enforcement (see Chapter III.9).

III.6 Enforcement against wages and other permanent pecuniary income

The enforcement of remuneration for work is carried out by the enforcement agent operating at the district court of the general jurisdiction of the debtor's domicile.¹⁷⁸ The enforcement agent proceeds to the enforcement of remuneration for work by seizing it. He/she shall notify the debtor that, up to the amount of the enforced benefit (claim) and until full coverage of the debt, the latter may not receive remuneration, apart from the part free from attachment or dispose of it in any other way. This applies in particular to:

- periodic remuneration for work and remuneration for commissioned work;

¹⁷⁴ Art. 995 CCP.

¹⁷⁵ Art. 1000 sec.1 CCP.

¹⁷⁶ Art. 1023-1028, 1035-1040 CCP.

¹⁷⁷ Art. 1024 sec. 1 CCP.

¹⁷⁸ Art. 880 - Art. 888 CCP.

- bonuses due to the debtor for the period of his/her employment;
- the employment relationship or profit of the company fund; and
- any other funds related to the employment relationship.

Apart from notifying the debtor, the enforcement agent requests the employer to make no payments to the debtor, apart from the part free from attachment. The employer is also ordered to:

1. transfer the remuneration directly to the enforcing creditor, notifying the enforcement agent of the first payment; or
2. transfer the remuneration directly to the enforcement agent if another attachment is or will be directed to the remuneration in the course of the enforcement proceedings, and the remuneration in the payable portion is not sufficient to cover all enforceable payable benefits (claims). However, depending on the circumstances, the employer may be requested to transfer the seized remuneration amount directly to the enforcement agent.

The enforcement agent also instructs the employer of the consequences of not complying with the summons (obligations). Remuneration for employment is subject to enforcement to the extent specified in the provisions of the Labour Code.¹⁷⁹ The legislator introduced a quota limit below which no deductions from remuneration for work can be made. This limit is equal to the minimum wage for full-time employees, after deducting social security contributions and income tax advances - e.g., the net amount of the minimum wage.¹⁸⁰ This restriction does not apply to the enforcement of maintenance (alimony claim).¹⁸¹ The limits within which deductions from remuneration for work can be made are 60% - in the event of enforcement of maintenance payments - and 50% - in the event of enforcement of other debts.

Deductions of amounts other than maintenance may not exceed half of the total remuneration, and together with the deductions of enforcement of maintenance, 3/5 of the remuneration.¹⁸²

III.6.1 Obligations of the employer

When making the attachment of the remuneration for work, the enforcement agent also calls on the employer to proceed to the following actions within a week's time:

1. present a summary of the debtor's periodic remuneration for work and separately his/her income from all other income sources for the period

¹⁷⁹ Art. 87 sec. 1 LC.

¹⁸⁰ In 2020 this limit was: PLN 1,920.00 net.

¹⁸¹ In 2020 this limit was: PLN 1,152.00 net.

¹⁸² The aforementioned rules shall apply accordingly to: unemployment benefits, activation allowances, scholarships and training allowances, paid pursuant to the provisions on employment promotion and labor market institutions, emoluments of deputies and senators, claims of members of agricultural production cooperatives and their household members for work in cooperatives, remuneration of labor cooperative members, and all recurring benefits intended to provide subsistence.

- of three months preceding the attachment, for each month separately;
2. indicate the amount and time of the attached remuneration transfer to the creditor;
3. indicate if there are obstacles to pay remuneration for work¹⁸³.

The employer is obliged to immediately notify the enforcement agent and creditor of any change of the circumstances. In the event of convergence of judicial and administrative enforcement, if the remuneration is not sufficient to cover all enforced amounts, the employer shall make payments to the judicial or administrative enforcement authority that first carried out the attachment, and if it is impossible to determine this priority, to the authority which made the attachment for a higher amount of receivables. He/she also immediately notifies the competent enforcement authorities about the convergence of enforcement, indicating the date of delivery of notifications of seizures made by these authorities and the amount of receivables for which the seizures were made. When making the seizure the enforcement agent instructs the employer about his/her obligations during the enforcement procedure.

The attachment is effected upon delivery of a summon on the seized claim to the debtor. However, the debtor may request the cancellation of enforcement of benefits payable in the future, if he/she pays all the payments and submits to the deposit account of the Minister of Finance an amount equal to the sum of periodic benefits for six months, with the enforcement agent's authorization to withdraw that sum. The enforcement agent shall use this power when he/she finds out that the debtor has been in default of payment. At the same time, the enforcement agent initiates ex officio the enforcement procedure. The salary seizure remains valid, even if after the attachment was made a new employment form was established with the debtor. Also, even if the debtor's workplace was transferred to another person, under the condition that said person knew about the attachment.

In the event of termination of employment with the debtor, the current employer shall mention the seizure of receivables in the work certificate issued to the debtor. If they become aware of the debtor's new employer, the current employer shall send to the new employer a notification and documents regarding the attachment of remuneration and shall notify both the enforcement agent and the debtor about this fact.¹⁸⁴

The enforcement agent's notification towards the new employer has the effect of seizing the debtor's debts upon reception. A new employer, to whom the employee presents a work certificate with a mention of attachment, shall notify the employer who issued the certificate and the enforcement agent indicated in the mention. If the new employer, to whom the employee has not presented the employment certificate,

¹⁸³ To make a statement about the type of these obstacles, and in particular to state whether there are other people who claim rights, whether and in which court the case for the remuneration is pending and whether and for which claims other creditors directed enforcement to the remuneration.

¹⁸⁴ The reference in the employment certificate should include the identification of the enforcement agent who seized the claim and the number of the enforcement case, and indicate the amount of already deducted sums.

finds out where the employee was previously employed, he/she is obliged to notify the previous employer of his/her employment, unless the employee presents a certificate of that employer stating that the receivables were not attached. The obligation to notify the enforcement agent of a change of employer also applies to the debtor. The debtor should be instructed of this obligation when being notified of the attachment.

The attachment makes all remuneration dispositions exceeding the part free of attachment and made after the attachment void. The same applies to remuneration dispositions made before the attachment, if the remuneration is due after the attachment. The enforcement agent imposes a fine of up to PLN 5,000.00 on employers who have not fulfilled the imposed obligations. The fine is repeated if the employer continues to evade these obligations. An employer who has not complied with the request is also liable for the damage caused to the creditor. The enforcement agent shall also impose a fine on the debtor who has not notified him/her of the change of employer.

As for the creditor, by virtue of the attachment itself, the creditor may exercise all rights and claims of the debtor. At the request of the creditor, the enforcement agent issues the relevant certificate, shall collect documents constituting proof of the claim from the debtor and submit them to the court deposit. The debtor is obliged to provide the creditor with all the explanations needed to assert rights of the seized claim against the debtor under pain of liability for caused damage.

III.7 Attachment under the debtor's debtor

In addition to the explicitly listed components of the debtor's property (e.g., bank account, work remuneration, movable and immovable property), the creditor is legally allowed to direct the enforcement to other debtor's receivables (debts) relating to his/her various relations (legal, commercial, social etc.) towards third parties. In certain cases, the provisions even allow a creditor to bring an action directly against a third party who does not want to cooperate with the enforcement agent in the course of ongoing enforcement proceedings. Various entities referred to as third-party debtors or debtor's debtors may appear during enforcement proceedings. Third party debtors include both debtors seized in the strict sense, e.g., the debtor's debtors,¹⁸⁵ as well as banks¹⁸⁶ or the debtor's employers¹⁸⁷.

Therefore, third parties should be defined as those entities which, due to their legal or factual relationship with the debtor, have a specific effect on the effectiveness of certain methods of enforcement, because they are obliged to provide instead of the debtor. They are obliged to perform free of charge statutory obligations, e.g., calculate and transfer the deducted part of the debtor's seized remuneration to an enforcement agent.

The creditor and the enforcement agent have been given certain rights in relation to

¹⁸⁵ Art. 895, 910 and 911⁸ CCP.

¹⁸⁶ Art. 889 CCP.

¹⁸⁷ Art. 881 CCP.

acts or omissions of a third-party debtor. In the course of enforcement proceedings, the scheme of activities performed by the enforcement agent and the correlations with the obligations of their recipients are, in principle, identical to every single debtor's debtor. The attachment is always made (effective) towards each third party at the same time e.g., at the time of delivery of summons to the debtor. The attachment of the claim has fundamental effect since the third party may only transfer the seized amount to the enforcement agent or court deposit. Disposition of the attached claim remains ineffective towards the enforcing creditor.

The enforcement agent notifies the debtor that they may not receive the benefit from the third party or dispose of the seized claim. Information about the existence of the debtor's debtor may be provided by the creditor or through the enforcement agent's search of the debtor's assets, carried out at the creditor's. As a part of the information obligation, the enforcement agent may ask stakeholders¹⁸⁸ to submit explanations and information necessary to carry out the enforcement proceedings.¹⁸⁹

A third party may refuse to present a document or testify only according to witness status. Moreover, upon written request of the enforcement agent, some entities, such as banks, cooperative savings and credit unions, and entities conducting brokerage activities, are obliged to provide him/her with all necessary information for the proper conduct of enforcement proceedings, implementation of the decision on granting security measures and performance of other activities falling within the scope of his/her statutory tasks.¹⁹⁰

The enforcement agent decides what information is needed to effectively carry out the enforcement procedure. The third party - debtor may be fined by the enforcement agent up to PLN 2,000.00 for failure to comply with the information obligation within the prescribed period or for providing false or incomplete information.¹⁹¹ This fine may be repeated.¹⁹²

The third party - debtor has the right to request the enforcement agent to provide him/her with the details on the title of the claim, to include all instructions required by law in the summons and to clarify doubts. If the third party - debtor commits misconduct in the performance of the attachment, as a result of which the debtor's claim is not transferred to the enforcing creditor, they are responsible for damage.¹⁹³ In addition, the legislator provides the creditor with the option of joining the debtor's rights under the attachment to directly enforce a claim that the debtor is entitled to

¹⁸⁸ Persons indirectly involved in the enforcement procedure.

¹⁸⁹ Art. 761 sec. 1 and sec. 2 CCP.

¹⁹⁰ Regarding, in particular, the financial status of the debtor, which would enable identification of his assets.

¹⁹¹ Art. 762 sec. 1, Art. 886 sec. 1 CCP.

¹⁹² In any case, if the request for explanations or information is directed to a legal person or other organization, the employee responsible for providing the explanation or information is subject to a fine, and if the determination of such employee is not possible, the manager would be fined.

¹⁹³ Art. 886 CCP.

from a third party.¹⁹⁴

When bringing an action against a third party - debtor, e.g., the debtor's employer, the creditor should summon the debtor against whom the enforcement proceedings are pending.¹⁹⁵ The defendant third party is required to provide the court with a list of all other entitled creditors to make notification.¹⁹⁶ The court issues the decision in favour of all the creditors of which it has been notified.¹⁹⁷

III.8 Enforcement against shares

Enforcement from the financial instruments entered into a securities account (shares) is a considerably recent institution. This method of enforcement is imperfect and has many disadvantages. It is also complicated and often time consuming, thus not very popular among the creditors and is carried out by enforcement agents quite rarely.¹⁹⁸

The enforcement agent shall proceed to the enforcement of financial instruments admitted to public trading recorded on a securities account or other account through attachment. Therefore, the attachment of financial instruments consists of activities towards the debtor and the debtor's debtor – financial entity, called a broker. To this end, the enforcement agent:

- Notifies the debtor that they may neither receive any benefit or dispose of seized financial instruments or account values, except for the ordered action;
- Instructs the entity not to carry out the debtor's instructions (with the exception of actions ordered by the enforcement agent) or pay the debtor the money from the account allocated to him /her;
- Instructs to transfer to the enforcement agent the sums of money seized up to the amount of the enforced claim or deposit them on the deposit account

¹⁹⁴ Art. 887 sec. 1 CCP. For the correct implementation of this action, the enforcement agent may issue an appropriate certificate for the creditor.

¹⁹⁵ In accordance with Art. 887 sec. 2 of the Code of Civil Procedure.

¹⁹⁶ Art. 195 CCP.

¹⁹⁷ The claims that are subject to attachment from the third party - debtors in enforcement proceedings are primarily: receivables from various types of contracts, both in cash and in kind; claims arising from the collected unemployment benefit; claims for damages (with the exceptions indicated below); claims under securities, e.g., promissory notes; claims due under tax settlements (e.g., overpayment of VAT).

However, the legislator distinguishes specific groups of claims (and related services) that are not enforceable. These include: amounts awarded by the State Treasury for special purposes such as scholarships for education, family benefits, various types of subsidies, assistance paid to a child placed in a foster family; non-transferable rights, unless the possibility of their sale is excluded by the contract, and the subject of the service is enforceable or the exercise of the right may be entrusted to someone else; personal insurance benefits, e.g. against the consequences of accidents and compensation from property insurance, up to three-quarters of their amount; social assistance benefits.

¹⁹⁸ From a practical point of view, it is also often not an effective way of enforcement due to lack of significant value of the seized items. Moreover, this type of enforcement is constantly changing due to the development of legislation on securities.



of the Minister of Finance.¹⁹⁹

Dispositions which could prevent satisfaction of the enforcing creditor from the attached shares are not allowed. These include:

1. Transfer of funds accumulated on the debtor's cash account;
2. Instructions to sell the seized financial instruments by way of order or by way of individual sale contracts outside the regulated market;
3. Instructions for transferring the seized financial instruments to other securities account belonging to the debtor.²⁰⁰

The statement must contain information about the existence of other persons' claims for the occupied rights to protect other people's rights. In addition, the debtor's debtor declaration should contain information about any potential obstacles to fulfil the requested obligation.²⁰¹ The financial entity is required to block the seized financial instruments. This is one of the necessary elements of attachment, and it determines the effectiveness of enforcement.

The next stage of enforcement is the sale of the seized financial instruments. It is a sale on the order issued to an investment company. The debtor, creditor and probation officer may sell financial instruments only by order. It is therefore impossible to sell financial instruments without an order, e.g., based on an individual sales contract concluded outside the order market that is not related to the performance of the order enforcement contract. Financial instruments cannot be sold by public auction either. It is also impossible for the creditor to take over financial instruments in place of payment, as was envisaged in the enforcement procedure of movable property.

The enforcement agent may serve letters to the operator of brokerage activities through the IT system operating the attachment of claims from a bank account and the entity - brokerage company submits letters to the enforcement agent via this system if it uses this system.²⁰² If the sums on the debtor's account are not enough to cover the enforced claim, an entity conducting brokerage activity immediately calls the debtor, so the debtor places a sale order within three days to satisfy the creditor for a month period, indicating which of the deposited financial instruments are to be subject of the sale order.

If financial instruments were seized previously on the basis of a freezing (secure measure) order, instruction by the debtor regarding the order for their sale shall be made after the seizure has been completed in enforcement, if the debtor submitted the sale order within three months from seizure. If the debtor fails to perform the

¹⁹⁹ Art. 911⁸ CCP.

²⁰⁰ It should also be indicated that the debtor's debtor – financial entity is required to make a declaration to the enforcement agent.

²⁰¹ In particular, the declaration must inform about the lack of cash in the enforced amount, whether an attachment is already made by another creditor and whether there is a coincidence of enforcements procedures.

²⁰² Will enter in force 10.10.2021.

action or despite undertaken activities does not sell the financial instruments, the account holder notifies the creditor about the financial instruments within three days, through an enforcement agent. The creditor then places an order to sell selected financial instruments. However, if the creditor fails to submit the order within two weeks, or if the sale at the request of the creditor did not take place within a year, the enforcement procedure is discontinued.

If the attachment was made at the request of two or more creditors, the sale order is submitted by a previously appointed guardian,²⁰³ unless creditors submit a compatible application for the sale of financial instruments. In case of appointing a guardian, the two-week period starts from the day of his/her appointment. This procedure does not concern such securities as documents incorporating certain property rights, to which the provisions on the enforcement of claims related to the possession of a document apply.²⁰⁴

The enforcement agent obtains information about securities accounts in various ways. Primarily, from the creditor who should indicate in the motion that the subject of enforcement would cover all financial instruments recorded on a securities account or other accounts at the time of attachment and the entity that runs this account. The enforcement agent may establish information through field operations, such as the search of the apartment or business data of the debtor, where the contract or confirmation of the transaction may be found, or ask the debtor's bank for information on previous money transfers to brokerages or brokerage accounts.

A formal information request may also be sent to all brokerage houses in the country, which are obliged to provide information needed for the enforcement proceedings performed by the enforcement agent. They are required to provide the enforcement agent with "any information necessary for the proper conduct of enforcement proceedings".²⁰⁵ The aforementioned remarks only apply to brokerage accounts kept in Poland; a Polish enforcement agent is not able to attach an account kept abroad.

III.9 Other attachment procedures

Simplified enforcement of real estate is a separate procedure, which allows enforcement of cash benefits in cases where:

²⁰³ Art. 908 CCP.

²⁰⁴ As for the entities obliged towards the debtor that participate in this enforcement procedure, apart from investment firms and foreign investment firms, they also include custodian banks, the National Depository for Securities and the National Bank of Poland (NBP), if they keep securities accounts, participants of the securities depository or registration of securities kept by the NBP, intermediating in the sale of securities issued by the Treasury States or the NBP, as well as other entities keeping accounts, on which financial instruments other than securities and brokerage financial instruments are recorded. These entities should include persons keeping cash or similar accounts, used to service accounts on which financial instruments are recorded, as well as investment funds keeping registers of fund participants or transfer agents, who were commissioned by such funds to keep such registers, and depositaries servicing accounts containing cash for settlements between the investment fund and its participant.

²⁰⁵ The list of currently operating brokerage houses and offices can be found on the website of the Polish Financial Supervision Authority.

- The subject of enforcement is undeveloped land or a real estate built-up with a residential or commercial building.
- No notification of the completion of construction or no application for permission to use pursuant to the provisions of the Construction Law has been made at the time of submitting the application to initiate enforcement.

This method of enforcement may be applied without the creditor's request.

The enforcement agent should determine whether simplified provisions will apply, at the latest when performing the description and estimation activities within the regular real estate enforcement procedure. The enforcement agent for the seizure of real estate directly applies provisions on enforcement of real estate. He/she leaves the seized property under the debtor's supervision, instructing him/her about the rights and obligations of the administrator.

After completing the attachment, a description and assessment of the property begins, which is carried out in accordance with the provisions on enforcement of real estate. If the undeveloped land property is free of encumbrances to third parties, the enforcement agent may sell such property directly (by private treaty), at a price not lower than the value of the property's estimate. When preparing free-market sales, the enforcement agent cooperates in this respect with the creditor and the debtor, who should determine the buyer search mode. Free-hand sales may take place no later than one month after completing the description and estimation.

If the parties do not agree on a mode of searching for buyers, the enforcement agent shall turn to the supervising district court and the court shall determine the procedure. If free-market sale does not take place, the sale shall take place through public auction, based on the real estate enforcement regulations. Real estate free sale is also possible when undeveloped real estate is encumbered for the benefit of third parties, built-up real estate remains unencumbered for the benefit of third parties or built-up real estate is encumbered for the benefit of third parties, if the property evaluation has not been contested by the debtor.

If the debtor has challenged the property assessment, the property may be sold directly with his/her consent, and he/she may appoint a buyer and set a minimum price. If this price is lower than the estimated price and may violate the interests of creditors, the enforcement agent withdraws from this type of sale. Free sale must be documented in a report drawn up by the enforcement agent.

The sale takes place by accepting the enforcement agent's offer submitted in the buyer search mode set by the parties or the court. If the property was sold with the consent of the debtor who set the minimum price and appointed the buyer, the sale takes place by accepting the offer by that buyer. The report together with the case files are presented to the court. If an enforcement agent correctly applied the simplified enforcement provisions, the court issues a decision on the award of ownership, which transfers ownership of the property to the buyer. If, however, the court finds that the property is subject to simplified enforcement, but the enforcement agent has violated the provisions on its description and evaluation, it

instructs the enforcement agent to conduct the procedure according to the provisions on simplified enforcement.

III.10 Handing over movable assets

The non-monetary enforcement procedure to hand over movable assets consists of taking the items directly from the debtor or a third party and handing them over to the creditor (physical taking over of the item by the creditor²⁰⁶). The enforcement agent competent to carry out this procedure is the one operating in the district court in whose territory the property is located. The exception to this rule is the enforcement of cash benefits, where the debt is related to the possession of a document; in these cases, the enforcement agent carrying out the enforcement of cash benefit is competent. An enforcement agent from outside the district may be selected to carry out enforcement of a movable property.²⁰⁷ The enforcement procedure of a movable item is generally initiated at the creditor's request.

Unless the creditor indicates to the enforcement agent the movable assets location, the enforcement agent may:

1. call on the debtor to submit a list of the property or other explanations necessary to carry out the enforcement;²⁰⁸
2. search the debtor's assets at the creditor's request.²⁰⁹

It is possible to hand over the items taken from the debtor to the creditor, if the creditor is present on delivery. With regard to the presence of the creditor when the items are supposed to be picked up by the enforcement agent, if the creditor wants to be present, an enforcement agent shall notify him/her of the date of collection. If the creditor does not appear, the enforcement agent shall not proceed with enforcement. A creditor who is not present at collection and has not indicated how the enforcement agent should deal with the recovered items should collect the item immediately after being notified about collection by the enforcement agent.

If the item taken away from the debtor cannot be immediately handed over to the creditor, the enforcement agent shall submit it to the court deposit or give it to safekeeping at the creditor's expense and risk.²¹⁰ If the movable property is in possession of a third party, its collection can only take place with the consent of that person. If the item belonging to the debtor is in possession of a third party who does not agree to its delivery, the enforcement agent shall seize the debtor's claim for the

²⁰⁶ Art. 1041 sec. 1 CCP.

²⁰⁷ Art. 759¹ CCP.

²⁰⁸ Art. 801 CCP. The debtor submits to the enforcement agent a list of property under pain of criminal liability for submitting a false statement. The enforcement agent warns him/her of criminal liability for submitting a false statement and instructs him/her that if the list of assets is not submitted, the creditor may order the enforcement agent to search for the debtor's assets (art. 801¹ CCP).

²⁰⁹ If the actions undertaken (art. 801 CCP) do not allow to determine the assets that enable satisfaction of the enforced benefit, the creditor may order an enforcement agent to search for the debtor's assets (art. 801² CCP).

²¹⁰ Art. 1042 CCP.

release of the item.²¹¹

Collecting the item is only possible after the creditor obtains an enforceable title against the person in whose possession the item remains. As soon as the items are handed over voluntarily to the enforcement agent or collected by him/her, the debtor ceases to be responsible for their loss or deterioration. However, if the enforcement agent does not find the item or document to be taken back from the debtor, the creditor is obliged to submit a request to the court to order the debtor to disclose the location of the item. The court, at the creditor's request, shall order the debtor to disclose where the requested items are located.²¹²

III.11 Enforcement in reinstatement of employee to work

The reinstatement judgment is subject to judicial enforcement by means of enforcing non-cash benefits.²¹³ The enforcement authority competent to enforce the irreplaceable benefit, which is admission to work by the employer, is the district court in whose district the employer's (debtor's) - and not the enforcement agent's - seat is located. As a rule, the employer must comply with certain legal provisions, otherwise the termination of the contract may not be valid, and the employee has the right to apply for reinstatement in the labour court. The court's decision can be both positive and negative in the context of reinstatement. In the event of refusal, the court may recognize both the pointlessness of such reinstatement to work but may also recognize the inability to restore the employee to work (when the company has been declared bankrupt or is in liquidation).

As a rule, the employer cannot terminate the employment contract if an employee has no more than 4 years to reach the retirement age. However, this type of protection does not apply in all circumstances.²¹⁴ Protection also applies to a pregnant or maternity leave employee, as well as to employees who are employed under specific provisions on the protection of the employment relationship. The court may declare either the termination of the employment contract ineffective or restoring the employee to work (on previous conditions).²¹⁵

A final court judgment restoring an employee to work obliges the employer to employ this employee in a previously held position. At the request of the employee, the court shall impose on the employer the obligation to continue employing the employee without the obligation to wait for the final termination of the proceedings (in the event of an appeal). However, a court decision alone does not mean that an interrupted employment relationship is automatically established.

The employee, after issuing a decision restoring him/her to work, is obliged to notify the employer of his/her readiness to start work immediately. The employer may

²¹¹ Art. 1043 CCP.

²¹² Art. 1045 CCP. Also art. 913 CCP and following concerning the disclosing assets procedure (court competence, procedure, coercive measures and so forth) shall apply accordingly.

²¹³ Art. 1050 CCP.

²¹⁴ Ex. Protection does not apply when employee obtained the right to a pension for total incapacity to work or in the case of termination of the employment contract without notice.

²¹⁵ Art. 477² sec. 2 CCP.

refuse to re-employ an employee if, within seven days of reinstatement, he has not declared readiness to start work, unless the deadline was exceeded for reasons beyond the employee's control. An employee who started work because of reinstatement to work is entitled to remuneration for remaining unemployed, but not for a period longer than two months. When the notice period is three months remuneration does not cover a period longer than one month. If the employment contract was terminated with a pre-retirement employee or employee during pregnancy or maternity leave, the remuneration is due for the entire period of being out of work.

An employee who has taken a job with another employer has the right to terminate the employment contract with the current employer without notice. However, there must be a three-day notice period. An employee may report his/her readiness to start work immediately in any form, by any behaviour that reveals intention to resume work in a sufficient way. If the employer unjustly refuses to admit the employee to work, even though he/she has notified readiness to work within seven days of reinstatement, the employee may apply for enforcement in this regard. The court, having determined that the employee has applied for work within the prescribed period, shall set the employer a deadline to comply with the judgment. If the situation does not change within the prescribed period, the court, at the employee's request, shall impose a fine on the employer, which may not exceed PLN 1,000. However, this fine limitation ceases to apply if the fine has not been effective three times.

The sum of all fines imposed on the employer by the court may not exceed PLN 100,000. If the employer does not pay fines and has still not allowed the employee to perform the work to which he was restored, the court shall convert the fine to prison custody up to six months. The persons responsible for employment or, in default, authorized to represent the employer (e.g., board members), shall be arrested. Apart from this, these persons are also subject to criminal sanctions in connection with not allowing the employee to perform work and refusing to pay him/her remuneration, if relevant.

III.12 Eviction

Eviction is the enforcement of a court order that terminates the legal relationship entitling to use the premises and orders the premises to be emptied. It is often a complicated and long procedure with many exceptions. The law strictly defines the period of protection against eviction. It cannot be carried out from 1 November to 31 March of the following year unless the evicted person has been granted with premises to be relocated. However, this prohibition shall not be respected in case of:

- Persons who have been obliged to leave the premises due to family abuse;
- Persons who were persistently violating the domestic order;
- Persons who make the use of other premises in the building burdensome by improper behaviour;

- Persons without legal title to the premises;
- Evictions related to occasional rental, which are also not subject to the protection period.

In the judgment ordering the emptying of the premises, the court decides whether the person concerned is entitled to receive social housing. The obligation to provide social housing lies with the competent commune of the location of the premises subject to emptying. However, the court must decide on the right to receive social housing if the eviction concerns a pregnant woman, a minor, a disabled or incapacitated person and his/her guardian. The court is also obliged to grant such entitlement to bedridden patients, pensioners who meet the criteria for receiving social assistance benefits, persons with the unemployed status and persons who meet the conditions specified by the commune council.

There is no such obligation in relation to persons who live in different premises than the ones previously used, or have lost their legal title to premises not included in the public housing stock (with the exception of persons who were entitled to use the premises on the basis of a legal relationship established with a housing association or a social housing association).

If the debtor is not entitled to other premises or room where he/she can live, or has not found a temporary room, the enforcement agent is obliged to apply to the municipality to indicate a temporary room, unless the creditor has indicated a temporary room. A person who already has a court order to empty the property should obtain an enforceability clause, which is issued upon request by the court that issued the eviction decision.

Enforcement of release of a property, a ship or emptying of a dwelling may be performed by the enforcement agent operating at the district court in whose district these are located.²¹⁶ If a person who is subject to an order to leave the premises has the right to other premises, the enforcement agent shall notify the competent authorities and persons who have the legal title to the premises, as well as persons who actually live there. The enforcement agent indicates the premises and specifies the date of eviction of the person who has received the order to leave them. However, if a person who is subject to an eviction order does not have the right to other premises, the enforcement agent must notify the creditor, e.g., a commune, cooperative or housing community. If the municipality does not indicate a temporary room within a period of six months, the enforcement agent applies again to the municipality for an indication of the place to which the person should be evicted.

After recent amendments, the enforcement agent may only transfer the evicted person to a temporary room, which the commune has indicated. The enforcement agent is obliged to proceed to eviction if the debtor, creditor or third party indicates a place that meets the requirements of a so-called temporary room. The enforcement of an eviction judgment and emptying of premises is currently much more difficult, as it becomes possible only after the commune has indicated a temporary room.

²¹⁶ Art. 1046 CCP.

However, according to the regulations it is obligatory to indicate a room - not an apartment - which must meet certain conditions.²¹⁷ According to the law, the room should be in the same place as the premises subject to emptying. A "nearby town" is legally defined as a town located in the county where the premises subject to emptying are located or in the neighbouring county.²¹⁸

Prior to eviction, the enforcement agent calls on the person to voluntarily leave the premises within the prescribed period. If the municipality or owner provides a temporary room to which the evicted person is to be moved, the enforcement agent must inform the evicted person about this fact. If the person obliged to empty the premises fails to do so voluntarily within the time limit indicated, the enforcement agent may proceed with eviction. However, if eviction concerns minors or incapacitated persons, the guardianship court must be notified.

Most often, possession is carried out by handing over the keys. During enforcement, the enforcement agent shall remove the movable property from the premises and give them back to the debtor. As the debtor's presence is not obligatory, items can be entrusted to both an adult household member and an appointed caretaker, who shall store the property at the debtor's expense. Prior to taking the removed goods under supervision, the enforcement agent draws up a protocol in which he/she describes the items left behind by the debtor in detail. The report should specify all removed movable property items together with their distinguishing features and their value (in the event of a possible sale).

The assessment is made by the enforcement agent based on his/her knowledge and life experience, and, if this is not possible, he/she can always appoint an expert to make the valuation. The caretaker is obliged to store the items in such a way that they do not lose their value and hand them over upon request of the enforcement agent, the consistent request of the parties or when ordered by the court decision. In addition, the caretaker may demand remuneration and reimbursement of expenses incurred in connection with the supervision. This does not apply if the debtor is the caretaker, the family members living with the debtor or a third party whose property was seized. If the debtor does not collect the movable property within the prescribed period (30 days minimum) upon the caretaker's request, the court shall order their sale or indicate another way of disposing of them at the request of the caretaker.²¹⁹

The sale takes place in accordance with the provisions on enforcement of movable property. If the sale turns out to be successful, the enforcement agent draws up a plan for the distribution of the sum obtained from the enforcement, from which the costs of enforcement and debt shall be paid. The remaining sum shall be given to the debtor or deposited in the court deposit. Eviction cannot take place during a period of

²¹⁷ Such as: be habitable, have access to water (tap or well, also outside the building), toilet (it can also be outside the building) and lights, have electric lighting, have heating option, offer the possibility of installing cooking equipment. The room must provide at least 5 sq. m. of living space per person. Wet walls, floors and ceilings are not allowed.

²¹⁸ The amendment to the Law on the protection of tenants' rights, the housing stock of the commune and on the amendment to the CC.

²¹⁹ In case of unsuccessful sales or worthless items.

pandemic.²²⁰

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

III.13.1 Enforcement of the decision for division of items

Enforcement proceedings depend on the form of the decision on the division of items issued by the court. During court proceedings, the co-owned item can be divided among the co-owners in three ways: by division (the so-called physical division), by granting to one or some of the co-owners and by sale (the so-called civil division). The basic way to end joint ownership is the physical division of an item. However, such a division cannot be carried out if it would be contrary to the law.²²¹

In the case of physical division, the court may decide on behalf of certain co-owner's cash payments aimed at equalizing the differences between the allocated part of the item and the amount of participation in the whole item. Enforcement involving the release of a movable item consists in taking the item directly from the debtor or a third party and handing it over to the creditor, e.g., in physical taking over of the item by the creditor.²²² The enforcement agent competent to carry out the enforcement concerning movable property is the enforcement agent of the district court in whose district the property is located.

Handing over the goods taken from the debtor to the creditor is possible if the creditor is present during delivery. A creditor who is absent and has not indicated how the enforcement agent should deal with the movable item, should collect it immediately after called by the enforcement agent. However, if the creditor requests to be present, the enforcement agent shall notify them of the date of collection. If the creditor is absent, the enforcement agent shall not act.²²³ If the movable property is in possession of a third party, collection can only take place with the consent of that person. If the item belonging to the debtor is in possession of a third party who does not agree to its delivery, the enforcement agent shall use the debtor's claim for the release of the item.²²⁴ Collecting the item is possible only after the creditor obtains an enforceable title against the person in whose possession the item remains.

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

In practice there are court rulings, which are enforceable by way of judicial enforcement. In this case, the enforcement agent is not competent to perform them; the district court acting as an enforcement authority has the competence to do so.

²²⁰ Art. 15zzu Law of 31 March 2020, amending the act on special solutions related to the prevention and combating of COVID-19.

²²¹ For example, it is not possible to divide a building in principle, the socio-economic purpose of the property does not allow it (e.g., if the division would lead to the liquidation of the enterprise) or it would cause a significant change in things or a significant reduction in value (e.g., in the event of a work of art being divided).

²²² Art. 1041 sec. 1 CCP.

²²³ Art. 1044 CCP.

²²⁴ Art.1043 CCP.

III.13.3 Enforcement of a substitutable act²²⁵

Unless the court indicated in the enforceable title that in the event of the debtor's failure to perform an act within the prescribed period, which another person may also perform, the creditor would be authorized to perform this act at the debtor's expense. The court in whose district the act is to be performed would call the debtor to perform the requested action within the prescribed period, at the request of the creditor. After the ineffective deadline expiry, the court would authorize the creditor to perform the action at the debtor's expense. At the request of the creditor, the court would also grant him/her the amount needed to perform the action. The court's decision may be appealed. However, this measure shall not apply to activities consisting in provision of items marked as to identity.

III.13.4 Enforcement of an irreplaceable act²²⁶

If the debtor has been requested to perform an act that another person cannot perform, and the requested performance depends solely on his/her will, the court in the district where the act is to be carried out shall set the debtor's deadline for the act to be performed under penalty of a fine, at the request of the creditor and after hearing the parties.²²⁷

If the performance of the action requires financial expenses or supply of materials and the obligation to provide them to the creditor, the court shall proceed to enforcement only after the creditor has demonstrated performance of the activities on which the obligation of the debtor depends. After the ineffective expiry of the deadline set for the debtor to perform the act, the court shall impose a fine on him/her at the request of the creditor. At the same time, the court shall set a new deadline to perform the act. A more severe fine may be imposed. However, the court may, at the request of the creditor and after hearing the parties, present the debtor with an order to pay a certain sum of money to the creditor for each day of delay, instead of a fine.²²⁸

A final court decision is an enforceable title for the creditor without the need for an enforceability clause. The court may also, at the creditor's request, increase the amount of money due from the debtor. If the debtor performs the act after the expiry of the deadline, the creditor may submit a request to order the debtor to pay a sum of money on his/her behalf within one month from the date of the act.

III.13.5 Acting against the debtor²²⁹

If the debtor is required to refrain from acting or interfere with the creditor's actions, the court in whose district the debtor acted contrary to his/her duty fines him/her, at the request of the creditor and after hearing the parties and finding that the debtor

²²⁵ Art. 1049 CCP.

²²⁶ Art. 1050 CCP.

²²⁷ In matters of labour law, the creditor may submit the application to the court of general jurisdiction of the debtor, to the court in whose district the work is or was to be performed, or to the court of the workplace location.

²²⁸ Art. 1050¹ CCP.

²²⁹ Art. 1051 CCP.

had acted against the obligation. In addition, the court may, at the request of the creditor, oblige the debtor to secure damage that the creditor may face because of the debtor's further actions against the obligation.

The court may also authorize the creditor to remove the change at the debtor's expense, upon the creditor's request and after hearing the parties. The court shall grant the sum needed for this purpose, at the request of the creditor. In the event of the debtor's resistance, the court, at the request of the creditor, shall instruct the enforcement agent to remove the resistance. The court, at the request of the creditor, after hearing the parties and finding that the debtor acted against the obligation, may order the debtor to pay to the creditor a certain sum of money, instead of imposing a fine. The court may also threaten to order a certain sum of money for any subsequent debtor's non-compliance.

After finding out that the debtor acted contrary to the obligation, the court, at the request of the creditor and after hearing the parties, orders the debtor to pay the sum of money to the creditor. In the event of repeated non-payment of the fine the court may convert it to custody, which may not exceed six months.²³⁰ If the debtor is a legal person or other organization, coercive measures are imposed on the employee responsible for failure to comply with the summons. If the determination of such an employee is difficult, the persons authorized to represent the entity shall face coercive measures.

III.13.6 Obligation of the debtor to submit a declaration of intent

If the debtor is obliged to make a declaration of intent, a final court decision obliging him/her to make a declaration replaces the debtor's declaration of intent.

III.14 Sequestration of goods

Movable and immovable goods seized during the enforcement procedure may be subject to sequestration. It is obligatory to put real estate property under so called "management", whereas movable goods may optionally be put under custody. The administrator is established by law and custody is established, depending on specific circumstances.

III.14.1 Movables

As a general rule, movable property that has been seized by the enforcement agent during the enforcement procedure remains under the custody of a person, from whom it was taken, who becomes the caretaker.²³¹ The enforcement agent serves them the seizure protocol. The caretaker cannot be an enforcement agent or an employee, their spouses, children, parents or siblings. The enforcement agent decides to issue a decision on this matter. This decision may be changed only for important reasons.²³²

There is no legal definition of "important reasons", however it may be considered to

²³⁰ Art. 1053 CCP.

²³¹ Art. 855 sec. 1 CCP.

²³² Art. 860 CCP.

include the suspicion of removing the item from enforcement, its damage or the debtor's refusal to accept it under supervision. In such cases, the enforcement agent is obliged to change the person chosen to be the caretaker. It may be properly assumed²³³ that the caretaker's tasks end when sale by public auction is completed. The enforcement agent shall order the change of the caretaker after hearing the parties unless immediate change is necessary.²³⁴ A caretaker may be released by the enforcement agent for important reasons and another caretaker shall be appointed, unless the costs of moving or storing would be disproportionately high.²³⁵

The enforcement agent may take over seized movable small property belonging to the debtor for personal supervision. Seized items are stored in the enforcement agent's office. At the court's order or upon a joint request from both parties, the enforcement agent is obliged to hand over the seized property to the authorized person. If necessary, the enforcement agent places it in a court deposit or puts it in safekeeping of the competent institution.

The caretaker or debtor entrusted with custody are obliged to keep the movable property so that it does not lose value, and hand it over to the enforcement agent upon the court's decision or the unanimous request of both parties. The caretaker keeps the enforcement agent informed about the state of the seized movables. The caretaker may demand reimbursement of expenses related with storage and remuneration for custody according to incurred hardships, unless he/she is the debtor.²³⁶

The enforcement agent determines the sum of expenses as well as the amount of remuneration and notifies the parties and the caretaker about it. If the seized movable property is left at the premises belonging to the debtor and custody was entrusted to the debtor alone or together with a family member, they have the right to ordinary use of it, only if the item does not lose value. Also, when allowed, a caretaker who is a third party can use the debtor's movable.²³⁷ When custody ends, the caretaker is obliged to submit an income statement to the enforcement agent. Pure income after deduction of expenses will be placed on the deposit account of the Minister of Finance.²³⁸ This procedure shall also apply to caretakers of real estate which is subject of enforcement under the simplified procedure.²³⁹

III.14.2 Immovables

During the enforcement procedure of real estate, as a rule, management is obligatory and arises by virtue of law upon the seizure of the real estate. The debtor remains the administrator of the property and may occupy it.

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

²³³ Art. 874 CCP.

²³⁴ Art. 860 CCP.

²³⁵ Art. 855 sec. 1 CCP.

²³⁶ Art. 858 sec. 1 CCP.

²³⁷ Art. 861 CCP.

²³⁸ Art. 862 sec. 1 CCP.

²³⁹ Art. 856 sec. 1 CCP.



Judgments of foreign courts in civil matters, which may be subjected to enforcement, become enforceable once a Polish court declares they may be enforced. This also applies to decisions issued by other bodies of foreign states with regard to civil matters.²⁴⁰ It should also be stressed that all kinds of settlements in civil matters concluded before courts and other foreign authorities or approved by them become enforceable titles after declaration of enforceability, if they are enforceable in the country of origin and they are not contrary to the basic principles of the legal order of the Republic of Poland.²⁴¹

The declaration of enforceability is made if the judgment in question is enforceable in the country of origin and there are no obstacles defined by Polish law²⁴² on conditions for recognizing court decisions issued in countries outside the European Union.

According to the legal provisions, a judgment shall not be recognized by Polish court, if:

- It is not valid in the country in which it was issued.
- It concerns matters falling within the exclusive jurisdiction of Polish courts.
- The defendant, who did not get into a dispute as to the substance of the case, was not served properly and in time to be able to defend the case.
- The party was deprived of the possibility of defence during the proceedings.
- A case for the same claim between the same parties was suspended in Poland earlier than before a foreign court.
- It is contrary to a previously issued final judgment of a Polish court or a previously issued final judgment of a court of a foreign country, meeting the conditions for its recognition in Poland, concerning the same claim between the same parties.
- Recognition would be contrary to the basic principles of the legal order of Poland.

A declaration of enforceability is made by court, which issues an enforceability clause to a court decision of a foreign country, upon the creditor's request. The application for an enforceability clause should be accompanied by the following documents:²⁴³

- Official copy of the decision.
- A document stating that the decision is final, unless the validity of the decision results from its content.
- Certified translation of the documents listed above into Polish.²⁴⁴
- A document stating that the decision is enforceable in the country of origin

²⁴⁰ Art. 1151⁴ CCP.

²⁴¹ This is called “public order clause”, art. 1152 CCP.

²⁴² Art. 1150, Art. 1146 sec. 1 and 2 CCP.

²⁴³ Art. 1151 CCP.

²⁴⁴ Art. 1147 CCP.



unless enforceability results from the content of the judgment or from the law of that State.

The decision on granting an enforceability clause is issued by the regional court of residence or registered office of the debtor. In the absence of such a court it is issued by a regional court, in whose district the enforcement procedure is supposed to be carried out. Within two weeks' time from the date of delivery of a copy of the application, the debtor may present his/her position on the matter.²⁴⁵

The decision of the regional court regarding the issue of the enforceability clause may be appealed before the court of appeal, and the appeal court's decision may be appealed before the supreme court. Enforcement proceedings based on a foreign court order may be initiated only after the decision on granting the enforceability clause becomes final.²⁴⁶

Until the deadline for submitting a complaint against the decision of the regional court granting an enforceability clause, and, in the event of submission of a complaint, until it is heard by the court of appeal, this decision remains as a security measure title, which should be specified by the creditor in the application for security measures.

For judgments concerning monetary claims only limited security measures are admissible.²⁴⁷

If necessary, security measures may also be determined by the regional court in the decision granting an enforceability clause, upon the creditor's request. A regional court may also make the application for security measures conditional - subject to deposit made by the creditor. The debtor is entitled to priority of satisfaction from the deposit made by the creditor. In the event of rejection of the complaint against the decision to grant the enforceability clause or issuance of an order granting an enforceability clause a court of appeal may make the enforcement of a foreign court decision subject to submission of adequate creditor protection. If the enforcement of the judgment could result in irreparable damage for the debtor, the court may withhold such enforcement until the expiration of the time limit for lodging a cassation appeal, and, if lodged, until it is heard by the Supreme Court.

PART IV: ENFORCEMENT COSTS

IV.1 The costs of enforcement

²⁴⁵ The court examines the application at a closed session (without public), art. 1151¹ CCP.

²⁴⁶ Art. 1151² CCP.

²⁴⁷ Art. 747 CCP.

- 1) Attachment of movable property, remuneration for work, claims from a bank account or other claim or property right.
- 2) Encumbering real estate with a compulsory mortgage.
- 3) Establishing a ban on selling or encumbering real estate that has no land and mortgage register or whose land and mortgage register has been lost or destroyed.
- 4) Loading a ship or ship under construction with mortgage.
- 5) Establishing a ban on selling cooperative ownership rights to premises.
- 6) Establishing a compulsory management of enterprise or farm or an enterprise forming part of the enterprise or part thereof or part of an obliged farm.



As a rule, the costs of the enforcement procedure are borne by the debtor. They do not reduce the amount due to the creditor, but they increase the amount that the debtor must pay. However, there are some exceptions, in cases when the creditor is ordered to pay enforcement agents' costs. Since 1 January 2019, a new law on enforcement agents' costs²⁴⁸ has been in force, which is part of the recent reform of enforcement proceedings.

The law sets out new amounts of enforcement agents' costs, the rules on their collection and the procedure to be followed. It does not apply to costs of enforcement proceedings conducted by the court and the costs of other court activities. The new regulation applies to proceedings commenced from 1 January 2019; the date of initiation is therefore decisive. Previous provisions apply to cases initiated and unfinished before this date.²⁴⁹ Exceptionally, the provisions of the new law on fee on discontinuation and unintentional proceeding initiation also apply to them.²⁵⁰

The new law defines "enforcement agent's costs" for the first time. Enforcement agent's costs include his/her expenses incurred during the enforcement proceedings and his/her fees²⁵¹. The list of potential expenses is strictly regulated and closed.²⁵² As for the enforcement agent's fees, they are both relative (proportional) or fixed, and include enforcement fees for conducting the enforcement proceedings, security of claims and fees for conducting other proceedings or performing other activities, e.g., drawing up a statement of facts, service of documents, eviction.

The revolutionary change in the nature of the enforcement fee should also be mentioned. Since 1 January 2019, the enforcement fee is a tax-free budget payment of a public law nature and remains no longer the private income of enforcement agents. Enforcement agents are entitled to a commission fee, based on the amount of fees received in a given month. The new system is supposed to be an incentive for enforcement agents to work more effectively. Since 1 January 2020, the enforcement agents are not subject to VAT tax, since they are strictly public bodies according to their new status.

IV.1.1 Enforcement agent's expenses

The enforcement agent is entitled to reimbursement of necessary expenses incurred during proceedings or other activities. The list of expenses includes:²⁵³

1. Receivables from experts and translators.
2. Advertising costs.
3. Specialist transport costs.
4. Costs of traveling outside the town where the seat of the enforcement agent's office is and flat-rate travel costs within this area.

²⁴⁸ LEAC.

²⁴⁹ Art. 52 LEAC.

²⁵⁰ Art. 52 sec. 2 LEAC.

²⁵¹ Art. 2 LEAC.

²⁵² Art. 6 LEAC.

²⁵³ Art. 6 LEAC.

5. Flat-rate costs to record activities taking place outside the office and to store video and audio recordings, if the creditor requests recording of activities.
6. Receivables of persons appointed to participate in activities under separate provisions.
7. Costs of obtaining documents or information necessary to conduct the proceedings.
8. Costs of delivery of correspondence, with the exception of costs of delivering to the parties a notice of initiation of enforcement, security proceedings or proceedings for the enforcement of a European order for security on a bank account.
9. Costs of enforcement agent 's operations outside the district.
10. Costs of funds' transfer by postal order or bank transfer.
11. Costs of covering the court fee due for entry in the land and mortgage register.

When determining the amounts of receivables for expenses, the enforcement agent takes into account the remuneration as well as intentional and necessary expenses indicated on the bill or invoice submitted by the entity authorized to receive the payment. The rule is that if the enforcement agent's action causes expenses, he/she makes it conditional on advance payment by the party who requests it.²⁵⁴ The act imposes on the creditor, among others, an obligation to make an advance payment for the costs of delivering correspondence. The amount of this advance may not exceed PLN 60.00 (unless the planned expenses significantly exceed this amount). The creditor, summoned by the enforcement agent for an advance payment, is obliged to pay under pain of non-performance of the requested actions.

Creditors who are exempt from court costs by law or court decision do not have this obligation. In the case of successful enforcement, the advance amount is returned to the creditor together with the enforced benefit.²⁵⁵ The enforcement agent is obliged to correctly mark the amount of the advance. In the request to pay the advance, the enforcement agent indicates the obliged party, its amount, the date of payment and the act resulting in expenses to be covered by the advance.

The enforcement agent should also instruct the party that the action will not be taken without the advance payment. The deadline for making the advance payment cannot be shorter than seven days or longer. If the application was submitted by a party who is domiciled or established abroad and who has no proxy in the Republic of Poland, this time limit may not be less than a month and may be extended. The enforcement agent is obliged to act according to the request paid, not later than within seven days from the date of the advance payment. The advance payment can only be used to cover expenses for which it has been paid. It can be used to cover other expenses only with the consent of the party that made the payment. The advance payment must be

²⁵⁴ Art. 7.1 LEAC.

²⁵⁵ Except for the costs of traveling outside the enforcement agent's district, which remains a creditor's expense.

settled within a month period. The unused advance amount is returned.

In each letter addressed to the party, the enforcement agent should inform of the current balance of advances and costs subject to collection on the basis of the order issued by the enforcement agent to collect the missing advance part. If the enforcement turns out to be unsuccessful in whole or in part, the enforcement agent shall issue a decision on collecting the amount corresponding to the expenses that were not covered from the creditor.

The new law introduced a significant change concerning the rules for charging parties with enforcement agents' fees. The previous system²⁵⁶ was supposed to finance all enforcement proceedings, including ineffective ones, from the fees collected in successful cases. The new law slightly departs from such a model and sets the basic rate of the relative fee of 10% of the value of the enforced cash. In addition, the legislator has set a relative fee range of at least PLN 150.00 and up to PLN 50,000.00.

Enforcement agents' fees are divided into enforcement fees for carrying out the enforcement proceedings, for securing the claim or the European Account Preservation Order and for conducting other proceedings or performing other activities. Fees are relative (proportional) and fixed. The relative fee is calculated as a certain percentage of the amount that is enforceable. The amount of the fixed fee is clearly defined in the regulations and is the same for all matters in each category.

IV.1.2 Fees for the enforcement of cash benefits

No	Activity	Fee amount	Remarks
1	Enforcement of cash benefits	10% of the value of the enforced cash	
2	If the debtor pays all or part of the enforced benefit directly to the enforcement agent or to his/her bank account within one month from the date of delivery of the notification of the initiation of enforcement	3% of the value of the sum enforced in this way, not less than PLN 150.00	The amount paid to the creditor by the debtor does not constitute enforced benefit
3	If the enforcement of the benefit occurred solely as a result of enforcement from a bank account, remuneration for work or social security benefits or as a result of satisfying benefits by the debtor to the enforcement agent's	Minimum fee is PLN 200.00	

²⁵⁶ Adopted in the LEAE.

	hands or to his/her bank account after one month from the date of delivery of the notification of the initiation of enforcement		
3	If the enforcement of the benefit occurred in a different way than indicated above in points 2 and 3	Minimum fee is PLN 300.00	
	<p>If the proceedings are discontinued at the request of the creditor or ex officio</p> <p>If the creditor's request had been filed before the debtor has been served with the notice of enforcement</p>	<p>The creditor shall be charged with an enforcement fee of 5% of the value of the benefit remaining to be enforced, not less than PLN 200.00</p> <p>The fee is PLN 100.00.</p>	Does not apply to creditors who are local government units
6	<p>If the creditor shows that the discontinuance of the proceedings was due to the debtor's payment having been made within one month from the date of delivery of the notification about the initiation of enforcement to him/her or with the conclusion of an agreement on the manner or date of performance within that timeframe</p> <p>If the performance of the benefit or the conclusion of the</p>	<p>A fee of 5% of the value of the benefit remaining to be enforced shall be charged to the debtor; however, the fee shall not be less than PLN 200.00²⁵⁷</p> <p>The debtor is charged a fee of 10% of the value of the benefit remaining to be enforced; however, the fee shall not be less than PLN 200.00</p>	

²⁵⁷ Art. 28 sec.4 LEAC.

	<p>agreement with the creditor took place after one month from the date of delivery of the notification about the initiation of enforcement to him/her</p> <p>If the creditor's request had been filed before the debtor was served with the notice of enforcement</p>	<p>The fee is PLN 100.00</p>	
	<p>In case of discontinuance of the enforcement proceedings at the request of the creditor of repeated benefits</p> <p>If the creditor's request had been filed before the debtor was served with the notice of enforcement</p>	<p>A fee of 5% of the value of the benefit remaining to be enforced shall be charged to the debtor</p> <p>The fee is PLN 100.00</p>	
7	<p>If the proceedings are discontinued for other reasons</p>	<p>PLN 150.00 charged to the enforcing creditor</p>	<p>The fee is subject to reducing by the sum of the enforcement fees collected and charged to the debtor</p> <p>There are some exceptions²⁵⁸ where no such fee is charged</p>
8	<p>In the event of obviously unintentional initiation of enforcement proceedings or indication of a person who is not a debtor in</p>	<p>A fee of 10% of the enforced benefit shall be charged to the creditor.</p>	<p>In this case, the enforcement agent does not collect or charge the debtor and returns the collected fee to them</p>

²⁵⁸ Art. 29 sec.5 LEAC

	the application to initiate enforcement		
9	Application for security of a monetary claim or a European Account Preservation Order	5% of the value of the benefit to be secured	However, if securing a pecuniary claim consists in an obligation to payment to the beneficiary, the provisions of art. 27–30 LEAC apply
11	In the event of a combination of real estate enforcement proceedings or part of the property or the creditor joining the proceedings of an enforcement action regarding real estate	One enforcement fee calculated on the basis of the total value of enforced benefit, which cannot be higher than PLN 50,000.00	

In cases regarding the enforcement of cash benefits, the enforcement agent charges a relative fee of 10% from the debtor. The amount of the fee may be reduced if the debtor pays all or part of the enforced benefit directly to the enforcement agent or to his/her bank account within one month from the date of delivery of the notification of the initiation of enforcement. Then, the enforcement agent collects from the debtor a relative fee amounting to 3% of the value of the sum enforced in this way, which shall not be less than PLN 150.00.²⁵⁹ The amount paid to the creditor by the debtor does not constitute enforced benefit.²⁶⁰

If the enforcement of the benefit occurred solely as a result of enforcement from a bank account, remuneration for work or social security benefits or as a result of satisfying benefits by the debtor to the enforcement agent's hands or to his/her bank account after one month from the date of delivery of the notification of the initiation of enforcement, the minimum fee is PLN 200.00.²⁶¹ If the enforcement of the benefit occurred in a different way than indicated above, the minimum fee is PLN 300.00.²⁶²

In some situations, the enforcement fee is charged to the creditor. This happens when the enforcement proceedings are discontinued at his/her request. If the proceedings are discontinued at the request of the creditor or ex officio, the creditor shall be charged with an enforcement fee of 5% of the value of the benefit remaining to be enforced and no less than PLN 200.00; this does not apply to creditors who are local government units).²⁶³ If the creditor's request had been filed before the debtor was served with the notice of enforcement, the fee is PLN 100.00.²⁶⁴

²⁵⁹ Art. 28.1 LEAC.

²⁶⁰ Art. 27. 3 LEAC.

²⁶¹ Art. 28.2 LEAC.

²⁶² Art. 28.3 LEAC.

²⁶³ Art. 29.6 LEAC.

²⁶⁴ Art. 28 sec.2 LEAC.



If the creditor shows that the discontinuance of the proceedings was due to the debtor's payment having been made within one month from the date of delivery of the notification about the initiation of enforcement to him/her or with the conclusion of an agreement on the manner or date of performance within that timeframe, a fee of 5% of the value of the benefit remaining to be enforced and no less than PLN 200.00 shall be charged to the debtor.²⁶⁵ If the creditor's request had been filed before the debtor was served with the notice of enforcement, the fee shall be PLN 100.00.²⁶⁶

If the performance of the benefit or the conclusion of the agreement with the creditor took place after one month from the date of delivery of the notification about the initiation of enforcement to the debtor or the conclusion of an agreement on the manner or date of performance, he/she is charged a fee of 10% of the value of the benefit remaining to be enforced; however, the fee shall not be less than PLN 200.00.²⁶⁷ If the creditor's request had been filed before the debtor was served with the notice of enforcement, the fee shall be PLN 100.00.²⁶⁸

In case of discontinuance of the enforcement proceedings at the request of the creditor of repeated benefits, a fee of 5% of the value of the benefit remaining to be enforced shall be charged to the debtor. If the creditor's request had been filed before the debtor was served with the notice of enforcement, the fee shall be PLN 100.00.²⁶⁹

The so-called **final payment (new fee)** charged to the enforcing creditor in the amount of PLN 150.00 (with some exceptions²⁷⁰) is set by an enforcement agent in the event of discontinuance of the enforcement proceedings for reasons other than the discontinuation at the creditor's request²⁷¹ or ex officio²⁷². In practice, a fee of PLN 150.00 shall be charged to the creditor in the event of discontinuation of the enforcement proceedings as being ineffective.²⁷³ The fee is subject to reducing by the sum of the enforcement fees collected and charged to the debtor.

In the event of obviously unintentional initiation of enforcement proceedings or indication of a person who is not a debtor in the application to initiate enforcement, the enforcement agent issues a decision on collecting a creditor's fee of 10% of the enforced benefit. In this case, the enforcement agent does not collect or charge the debtor and returns the collected fee to the debtor. The fee applicable to an application for security of a monetary claim or a European Account Preservation Order is 5% of the value of the benefit to be secured.²⁷⁴

²⁶⁵ Art. 28 sec.4 LEAC.

²⁶⁶ Art. 29 sec.3 LEAC.

²⁶⁷ Art. 28 sec.4 LEAC.

²⁶⁸ Art. 29 sec.3 LEAC.

²⁶⁹ Art. 29 sec.3 LEAC.

²⁷⁰ Art. 29 sec.4 and 5 LEAC.

²⁷¹ Art. 825 CCP.

²⁷² Art. 824 sec. 1 item 4 CCP.

²⁷³ Art. 824 sec. 1 item 3 CCP.

²⁷⁴ However, if securing a pecuniary claim consists in an obligation of payment to the beneficiary, the provisions of art. 27–30 LEA apply accordingly. If, prior to the commencement of enforcement proceedings for a cash benefit, the enforcement agent has secured the pecuniary claim or a European

In the event of combination of real estate enforcement proceedings or part of the property or the creditor joining the proceedings of an enforcement action regarding real estate, one enforcement fee shall be calculated on the total value of the enforced benefit, which cannot be higher than PLN 50,000.00.²⁷⁵

IV.1.3 Fees for the enforcement of non-cash benefits

No	Activity	Fee amount
1	Handing over a movable property ²⁷⁶	PLN 400.00
2	Enforcement of possession of real estate used to meet the housing needs of the debtor or the emptying of premises or room used to meet such needs ²⁷⁷	PLN 1,500.00
2	Enforcement of other property or emptying of other premises or room ²⁷⁸	PLN 2,000.00
3	If the property, premises or room are used by the debtor for business purposes only ²⁷⁹	The fee shall be increased by a fee of PLN 1,000 from the second and each subsequent room, up to PLN 30,000.00
4	Introducing bankruptcy administrator or property manager into possession of real estate property, securing evidence in intellectual property cases, issuing evidence in intellectual property cases ²⁸⁰	PLN 400.00
5	Participation in removing the debtor's resistance and court order regarding placement of the debtor in custody ²⁸¹	PLN 1,000.00
6	Enforcement of other non-monetary benefit ²⁸²	PLN 400.00
7	Other security measures ²⁸³	PLN 300.00
8	Enforcement of the order securing the inheritance and making an inventory ²⁸⁴	PLN 400.00

Account Preservation Order about the same benefit on bank account of the relative fee referred to in art. 27 or article. 29 LEAC, the fee collected from the creditor on the application for security is included.

If the fee charged for securing the claim is higher than the enforcement fee, the difference is not refundable (art. 32 LEAC).

²⁷⁵ Art. 24 LEAC.

²⁷⁶ Art. 33 LEAC

²⁷⁷ Art. 34 sec.1 LEAC.

²⁷⁸ Art. 34 sec.2 LEAC.

²⁷⁹ Art. 34 sec.3 LEAC.

²⁸⁰ Art. 35 LEAC.

²⁸¹ Art. 36 sec. 1 LEAC. In the event of a court order to place the debtor in custody, the enforcement agent calls on the creditor to pay a fixed fee within 7 days from the date of service of the summons, under pain of refusing to carry out the order. A copy of the refusal to execute the order shall be delivered to the court by the enforcement agent (art. 36 sec. 2 LEAC).

²⁸² Art. 37 LEAC.

²⁸³ Art. 38 LEAC.

²⁸⁴ Art. 40 LEAC.



9	Direct and personal delivery of court notices, pleadings and other court documents with acknowledgment of receipt and date indication at the court's order ²⁸⁵	PLN 60.00 ²⁸⁶
10	Recipient current address determination ²⁸⁷	PLN 40.00
11	Statement of facts ²⁸⁸	PLN 400.00
12	Bidding on a pledgee's request for a registered pledge ²⁸⁹	PLN 1,000.00
13	Searching the debtor's assets at the request of the creditor ²⁹⁰	PLN 100.00
14	If the debtor meets the performance stated in the enforceable title at least 3 days before the planned performance of the enforcement If the performance by the debtor took place before the notification of the initiation of enforcement or a summons for voluntary enforcement obligation was delivered to the debtor ²⁹¹	The enforcement agent returns 50% of the fee paid to the creditor The enforcement agent returns the creditor part of the fee paid in excess of PLN 200.00
15	Conducting a voluntary public auction ²⁹²	The fee is established by the enforcement agent together with the applicant

IV.1.4 Exemption from enforcement agent's costs and reduction of fees

As a rule, exemption from court costs granted to a party by law or by court during the examination in civil procedures extends to enforcement agent's costs. The State does not pay enforcement fees. However, a party that does not benefit from exemption and is not financially capable to cover expenses or the enforcement agent's fees may apply to the district court for release of these costs, in full or partly. The court shall temporarily pay sums corresponding to the amount of expenses and fees, at the enforcement agent's request. However, exemption of a party from enforcement agent's costs does not release them from the obligation to pay an enforcement fee for the enforcement of cash benefits and reimbursement of the costs of enforcement proceedings to the other party if there are legal grounds to charge the party with an enforcement fee or costs of enforcement proceedings.²⁹³

The debtor (or the creditor when he/she is obliged to pay an enforcement agent's fee) may submit before a district court an application for reduction of the ordered enforcement fee for the enforcement of cash benefits, if this is justified by special circumstances relating to the enforcement agent's workload or the debtor's financial

²⁸⁵ Art. 41 sec. 1 LEAC.

²⁸⁶ The fee is collected for delivery to one marked address in the letter, regardless of the number of addressees of the letter residing and the number of delivery attempts made. Art. 41 LEAC.

²⁸⁷ Art. 41 sec.2 LEAC.

²⁸⁸ Art. 42 LEAC.

²⁸⁹ Art. 43 sec. 1 LEAC.

²⁹⁰ Art. 44 LEAC.

²⁹¹ Art. 39 LEAC.

²⁹² Art. 43 sec. 2 LEAC.

²⁹³ Art. 47 LEAC.



standing and the amount of his/her income. The request, which is free of charge, should be lodged within seven days from the date of delivery of the decision on the collection of payment or the fee due. The reduced fee may not be lower than one third of the fee, and not lower than PLN 200.00.²⁹⁴

IV.1.5 Bonus: Enforcement costs set out in the previous legal framework

Up to 30 December 2018, in accordance with the provisions of the LEAE (currently repealed), the fee enforced from the debtor by the enforcement agent was of a relative nature. This legal framework continues to apply to cases initiated and unfinished before January 2019.²⁹⁵

No	Activity	Fee amount
1	Implementation of the order granting security a monetary claim or European Account Preservation Order enforcement	2% of the secured claim value, but not less than 3% of the average monthly salary and not more than five times this salary, paid by the creditor
2	Enforcement of cash benefits	15% of enforced benefit, but not lower than 1/10 and not higher than thirty times the average monthly salary
3	Enforcement of a benefit from a bank account, remuneration, social insurance benefits, as well as paid out on the basis of regulations on employment promotion and labor market institutions, unemployment benefit, activation allowance, scholarship and training allowance	8% from the debtor enforced benefit, but not lower than 1/20 and not higher than ten times the average monthly salary
4	Enforcement of cash benefits in the event of discontinuation of the enforcement proceedings at the request of the creditor	5% of the value from the debtor benefits remaining to be enforced, but not lower than 1/20 and not higher than ten times the average monthly salary
5	Enforcement discontinued at the creditor's request notified prior to delivery to the debtor of a notice of initiation of enforcement	A fee of 1/20 of the average monthly salary borne by the debtor
6	Taking possession of real estate and removing movable property from it; a fee is charged for commercial and industrial enterprises from each room; introducing the administrator into the management of the property or enterprise; emptying the premises	20% of the average monthly salary, a separate fee is collected for each room
7	Inventory of property	10% of the average monthly salary for each stated hour
8	Bringing a creditor into possession in other cases	15% of the average monthly salary

²⁹⁴ Art. 48 LEAC.

²⁹⁵ Art. 52 LEAC.



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PART V: LINKS, LITERATURE AND SOURCES

<https://www.komornik.pl/>

<http://www.europe-eje.eu/en/eje-project>

<http://www.europe-eje.eu/en/fiches-thematiques/pays/pologne>

<https://www.gov.pl/web/sprawiedliwosc/formularz-wniosku-o-wszczecie-egzekucji-oraz-skargi-na-czynnosci-komornika>

<https://www.lexagit.pl/>

<https://www.gazetaprawna.pl/>

<http://www.finansepubliczne.pl>

<https://kirp.pl>

<https://czasopisma.beck.pl>

<http://krdn.pl/orejestrze>

<https://www.rp.pl>

<https://www.temidium.pl/>

<https://czasopisma.beck.pl>

<https://bezprawnik.pl/>

<https://www.lex.pl/>

