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Narrative National Report

Author: Adrian Stoica, Expert Judicial Officer, Romanian National Union of Judicial Enforcement Officers; Professor, Ovidius University of Constanța

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PART I: LEGAL FRAMEWORK

I.1 Legislation affecting civil enforcement

Enforcement is the procedure by means of which the creditor, holder of the right recognized by judgment or by another enforceable contract, obligates, with the help of the relevant state bodies, his/her debtor who does not voluntarily fulfill the obligations arising from such a right, to fulfill them, in a forced manner[1]. The legislation specific to forced execution in Romania is enshrined in the following normative acts:

- **The New Civil Code/NCC**[2];

- **The New Civil Procedure Code/NCPC**, the provisions of Book V (art. 622-914) and VI (art. 952-979)[3];

- **The Commercial Code of Romania**, only the provisions of Book II (art. 490-694) "On maritime trade and navigation"[4];

- **Law no. 188/2000**, on judicial officers[5].

Book V of the New Civil Procedure Code represents the heart of the enforcement issues. The specific forms of this procedure are regulated in terms of:

● ***general provisions***;

● ***seizure of the debtor's assets*** (seizure of movables, seizure of immovables, release and distribution of sums resulted from seizure);

● ***direct enforcement*** (forced transfer of movable property, forced transfer of immovable property, enforcement of other obligations to do or to cease doing, enforcement of judgments and other enforceable titles relating to minors).

Enforcement in civil lawsuits in Romania occurs in any of the forms provided by law, simultaneously or successively, until gaining the right recognized by the enforceable title, the payment of interest, penalties or other sums, granted according to law, and

[1] I. Les, Enforcement Legislation. Comments and Explanations [Legislaţia executării silite. Comentarii şi explicaţii], C.H. Beck Publishing House, Bucharest, 2007; D.A.P. Florescu, P. Coman, T. Mrejeru, M. Safta, G. Bălaşa - Forced execution. Regulation, doctrine, jurisprudence [Executarea silită. Reglementare, doctrină, jurisprudenţă], 3rd ed., C.H. Beck Publishing House, Bucharest, 2009; A. Stoica, Immovable Assets Enforcement [Executarea silită imobiliară], Universul Juridic Publishing House, Bucharest, 2009; I. Gârbuleţ, A. Stoica, Enforcement Practical Guide. Explanations, requests, forms [Ghid practic de executare silită. Explicaţii, cereri, formulare], 2nd ed., Hamangiu Publishing House, Bucharest, 2010; E. Oprina, I. Gârbuleț, Theoretical and practical enforcement dissertation [Tratat teoretic și practic de executare silită], Vol. I and II, Universul Juridic Publishing House, Bucharest, 2013.

[2] The New Civil Code, in force since 2011 (October 1), by Law no. 71 of June 3, 2011 (Official Gazette of Romania no. 409 of June 10, 2011), on the implementation of Law no. 287/2009 regarding the Civil Code.

[3] The New Civil Procedure Code, in force since 2013 (February 15), by Law no. 76 of May 24, 2012 (Official Gazette of Romania no. 365 of May 30, 2012) on the implementation of Law no. 134/2010 regarding The Civil Procedure Code, Official Gazette of Romania no. 365/2012.

[4] The Commercial Code, published in The Official Gazette of Romania no. 31, of May 10, 1887.

[5] 5.Law no. 188/2000 on judicial officers, republished in The Official Gazette of Romania no. 738 of October 20, 2011.

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of the enforcement costs.

I.2 Enforceable titles

The existence of an uncontested, liquid, and enforceable claim is not sufficient to trigger enforcement, which is why, imperatively, this procedure will only be carried out on the basis of a judgment or of another written act deemed an enforceable title under the law. Therefore, the basis of the forced execution is the enforceable title.

The enforceable title is defined as the document drawn up in accordance with the provisions of the law and based on which the creditor can request the capitalization of the claim that this document ascertains.

The main enforceable titles which can be enforced by judicial officers in Romania are the following:

A) Judgment. In order for a judgment to be enforced, two conditions must be met: it must continue to be (provisional) ***enforceable*** or it must be ***final***. Only judgments which highlight an obligation incumbent on a party to the proceedings brought before the court can be enforced, and not judgments which, in their content, ascertain a status quo or a right in favor of a party. In Romanian legislation, art. 633 of NCPC, regulates the "enforceable judgments", and art. 634 of NCPC, "final judgments".

B) Foreign judgments and transactions concluded abroad, subject to the recognition norms provided by Regulation no. 805/2004 and Regulation no. 1215/2012 of the Council of Europe. Community rules, with a procedural character, tend to highlight a uniform enforcement right by implementing Regulation (EU) no. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which repealed Regulation (EC) no. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, pronounced in EU Member States, but also by the simplified procedure stipulated in the provisions of Regulation (EC) No. 805/2004 on creating a European Enforcement Order/TEE[6]. Although these two regulations establish procedural rules for enforcement, the procedure is completely different. In the case of Regulation (EU) no. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which repealed Regulation C.E. no. 44/2001, the recognition is realized by the national court of the state where that judgment is to be enforced. On the other hand, Regulation (EC) no. 805/2004 TEE establishes conditions for the certification of documents that may constitute enforceable titles, which must be observed by the courts in whose territorial jurisdiction (rationae loci) that document was constituted, precisely in order to be able to move freely in any EU Member State (except Denmark) in which the creditor would wish to enforce it.

[6] See J. Isnard, European Enforcement Order (TEE) [Titlul Executoriu European (TEE)]. Regulation 805/2004 of April 21, 2004, R.E.S no. 1/2007, pp. 34-41; I.Leş, A.Stoica, European Enforcement Title for Uncontested Claims [Titlul Executoriu European pentru creanţe necontestate], R.R.D.P., no.2 / 2008, pp.198-214; J. Isnard, M.Chardon, Le titre exécutoire européen, JurisUnion, IDIJPDE, Paris, 2007.

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C) Arbitration awards/arbitral awards. The most important effects of an arbitration award lie in the final and enforceable character affecting both parties and the third parties. According to art. of 615 of NCPC, an arbitration award is an enforceable title and is enforced just like a judgment. Also, the Romanian legislation qualifies as foreign arbitration awards any arbitration awards of domestic or international arbitration pronounced in a foreign state and which are not considered national judgments in Romania (art. 1124 of NCPC). Consequently, the effectiveness of these awards is recognized and they can be enforced in Romania if the dispute which constitutes their object can be resolved by arbitration in Romania and if they do not contain provisions contrary to public policy under Romanian private international law (art.1125 of NCPC).

***D)* Documents certified by the notary public.** The modern notarial activity highlights the principle according to which "*The act performed by the notary public, bearing his/her seal and signature, has public authority and probative value and, as the case may be, the executory force provided by law*" (art. 7 of Law no. 36/1995). The purpose of the notarial activity is to ascertain the non-litigious civil or commercial legal relations of the natural or legal persons. Having the status of an autonomous function of public authority, the notary public, among his/her multiple responsibilities that the law recognizes, can also authenticate the documents in the content of which legal relations between parties are ascertained. The law grants these documents an enforceable effect, according to the provisions of art. 101 of Law no. 36/1995, which establishes a series of rules specific to the documents certified by the notary public. Paragraph (1) of this legal text highlights the fact that "the document authenticated by the notary public who ascertains an uncontested and liquid claim has the power of an enforceable title at its due date". Similarly, paragraph 2 recognizes the character of enforceable title of the parental agreement concluded by an authenticated document on the occasion of divorce or subsequent to this moment, in which, exercising joint parental authority, parents agree on issues such as: establishing the child's domicile, the manner of maintaining personal ties between the minor and the parent who does not live with him/her, as well as other measures on which the parents may have a mutual agreement.

***E)* Credit contracts, including collateral or personal security contracts concluded by a credit institution**. According to art. 120 of Government Emergency Ordinance no.99/2006, credit contracts constitute enforceable titles, and the obligation of approving the forced execution by the enforcement court was imposed by Decision no. 458/31.03.2009 of the Constitutional Court. The same legal regime is also applied in the case of collateral or personal security contracts concluded by a credit institution.

F) Bills of exchange, cheques, and promissory notes. These credit instruments are of particular importance in the context of a functioning market economy, which is why the legislation governing them makes them enforceable. In this sense, the enforceable character of the bill of exchange is stipulated in the provisions of art. 61 para. (1) and (2) of Law no. 58/1934 on the bill of exchange and promissory note. Regarding the promissory note, the enforceable character is deduced by the interpretation of art. 106 corroborated with art. 61 of Law no. 58/1934. The same enforceable character also applies to the cheque by art.53 of Law no.59 / 1934.

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G) Lease agreements. The provisions of art. 8 of the Government Ordinance no. 51/1997, amended and republished, regarding the leasing operations and leasing companies, republished, establish the fact that, "*lease agreements, as well as collateral or personal security constituted in order to guarantee the obligations assumed in the lease agreement constitute enforceable titles*". In order to acquire this enforceable effect, in the case of the lease agreement, the user must stop paying the installments, and the financier, in this situation, has the right to unilaterally cancel the contract for non-fulfillment of contractual obligations, without refunding the user for the paid installments. Starting with Article 8 of Government Ordinance 51/1997, we ascertain the following: "the lease agreement constitutes an enforceable title" if the user does not transfer the asset in the following situations:

- at the end of the leasing period, if the user has not formulated the option to purchase the asset or to extend the contract;

- in case of cancellation of the contract due to the user's sole fault.

H) Mortgage agreements. The provisions of art. 2431 of NCC expressly stipulate the enforceable character of mortgage agreements. Due to the fact that jurisprudence was not uniform, the High Court of Cassation and Justice intervened through the mechanism provided by the New Civil Procedure Code so as to ensure the unitary practice, namely resolving the question of law by provisional judgment and confirmed the possibility of enforcing a claim secured by a validly concluded mortgage agreement by Decision no. 60 of September 18, 2017. The High Court noted that a mortgage agreement, in order to be enforced, must meet not only formal, but also substantive requirements. These substantive requirements take into account the very nature of the claim, in view of the accessory nature of the mortgage, which must be uncontested, liquid, and enforceable[7].

I) Contracts for legal assistance. The contract for legal assistance, legally concluded, constitutes an enforceable title regarding the arrears from fees and other expenses incurred by the lawyer in the interest of the client, in accordance with art. 31 para. (3) of Law no. 1995 for the organization and practice of the lawyer's profession, republished[8], and art. 124 para. (1) of the Statute of the lawyer's profession[9].

J) Agricultural leases. The New Civil Code, in the provisions of art. 1845, highlights the enforceable character of the agricultural lease. The legal text recognizes this character for authenticated lease contracts, and for those under private signature, under the condition to be registered in the local Council records situated in the proximity of the leased land. The enforceability of these acts is recognized by the mentioned legal norm for the payment of the lease under the terms and in the modalities stipulated in the contract.

K) Certain documents issued by the judicial officer. Within the enforcement

[7] See: www.monitoruljuridic.ro.
[8] Official Gazette no. 98 of February 7, 2011.
[9] Approved by Decision no. 64/2011 of the Council of the National Association of the Romanian Bars (Official Gazette of December 19, 2011).

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procedure, the judicial officer can issue a series of enforceable documents. This enforceable character is recognized by various texts of the New Civil Procedure Code and we can list the following:

a) The ending, for establishing the enforcement expenses, regulated by the provisions of art.670 of NCPC;

b) The adjudication act of an immovable asset, regulated by art. 854 of NCPC;

c) The minutes for establishing the enforcement expenses, concerning the direct transfer of movable or immovable assets, regulated by the provisions of art. 890 and art. 900 of NCPC;

d) **Public utility bills**, whose executory force is recognized by the provisions of Law no. 225/2016 for amending and completing the Law on Community Services of Public Utilities no. 51/2006, published in the Official Gazette of Romania no. 942 of November 23, 2016 and in force since November 26, 2016.

I.3 Service of documents to parties and third parties

First of all, the judicial officer can transmit to parties and third parties all the enforcement acts issued within the enforcement proceedings, but also other judicial or extrajudicial documents according to provisions of art. 672 of NCPC and art. 7 letter b) of Law no. 188/2000 on judicial officers.

Regarding the trial phase of the lawsuit, the summons and communication of procedural acts to parties and third parties is performed according to art. 153-173 of NCPC. According to art. 154 of NCPC, the exclusive jurisdiction regarding the summons and communication of procedural acts belongs to the procedural agents of the court or to its other employees. The judicial officer can be empowered with such a procedure only under the conditions of art. 154 para. (5) of NCPC, at the request of the interested party and at its expense.

It is important to note that the procedural agents of the courts operate under art. 64 of the Internal Regulations of the courts, approved by the Decision of the Plenum of the Superior Council of Magistracy no. 1375/2015[10].

Furthermore, regarding art. 2 of Regulation (EC) no. 1393/2007, in Romania, both the receiving authority and the authority transmitting judicial and extrajudicial documents, in civil or commercial matters, is the court located in the proximity of the domicile of the person to whom the document is to be communicated or notified, as well as the one who wishes to transmit a judicial or extrajudicial document. In these circumstances, the body competent for the transmission of judicial or extrajudicial documents to the addressee is also the procedural agent of the court or other employees thereof. It should be noted that within the procedure regulated by Regulation (EC) No. 1393/2007, the judicial officer has no jurisdiction.

Determining the role of the judicial officer regarding the transmission of documents

[10] Published in the Official Gazette of Romania, Part I, no. 970 of December 28, 2015.

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to parties and third parties in the Romanian judicial system is an operation which generates some very interesting discussions.

I.4 Legal remedies, appeal and objection

Romanian enforcement legislation allocates a series of provisions to legal remedies, appeals or to the possibility for a party or a third party to raise objections in the enforcement procedure.

Firstly, the legal remedies with an impact on this procedure are stipulated within the institution called "*Return of the forced execution*", regulated by the provisions of art. 723-726 of NCPC.

The right to the invalidation of enforcement appears, according to art. 723 para. (1) of NCPC, in all cases where the enforceable title or the forced execution itself is abolished. As far as the assets on which the enforcement was based, according to the following paragraph of the mentioned legal text, they will be returned to the rightful person, without infringing on the final rights of the bona fide third parties. The last paragraph of the aforementioned article regulates the case where enforcement was implemented by the sale of certain assets. In this situation, the invalidation of enforcement is realized through the restitution by the creditor of the amount resulted from the sale, updated according to the inflation rate.

The method of restoring to the situation prior to enforcement is regulated by art. 724 of NCPC. The first paragraph of this legal text, in the first statement, emphasizes the case in which the court cancelled the enforceable title or the enforcement itself, at the request of the interested person. In these circumstances, the court will rule, by the same judgment, on the restoration prior to the enforcement. At the same time, the last statement of the same paragraph refers to the situation concerning immovable assets. Thus, if the asset subjected to enforcement is an immovable asset, the court will rule on carrying out the necessary land registration operations, without prejudice to the final rights of the bona fide third parties, according to the land registration rules.

Moreover, paragraph (2) of the aforementioned article refers to the cancellation of an enforceable title which consists of a judgment. Therefore, in the event that the court which cancelled the enforced judgment has ordered a retrial on the merits of the case and has not ruled on the restoration to the situation prior to the enforcement, this measure can be ordered by the court responsible with the retrial on the merits of the case.

The restoration to the situation prior to enforcement cannot be carried out only with the settlement of the action by which an enforceable title has been abolished. In this sense, according to the last paragraph of art. 724 of NCPC, the entitled person can request it, separately, to the enforcing body.

With regard to the *appeal against enforcement*, it should be noted that this is the procedural means by which the parties or third parties injured by the enforcement can make a complaint to the competent court in order to obtain the cancellation of the illegal enforcement acts. Therefore, the enforcement procedure must take place

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only according to conditions provided by the law, otherwise it can be cancelled at the request of those whose rights have been affected. The Romanian legislation tackles the issue of appeal against enforcement in civil matters in the content of art. 712-720 of NCPC.

The subjects of appeal against enforcement are, firstly, the creditor and the debtor, but also third parties outside the enforcement relationship. The condition specifically required for such an appeal to be brought, in addition to the general conditions for taking a legal action, is that third parties must be harmed by the acts or measures of enforcement.

One of the subjects of the appeal against enforcement is the prosecutor, as he/she can promote this special legal remedy.

The object of the appeal against enforcement can be the written statement drawn by the judicial officer, his/her refusal to carry out a forced execution or an act of enforcement under the law, the actual seizure, the meaning, extent or application of the enforceable title, or the division of the co-owned in percentage shares or jointly owned assets.

Regarding the **time limit** in which the appeal against enforcement can be exercised, art. 715 para. (1) of NCPC stipulates that this can be done within 15 days from the date when:

- the appellant became aware of the enforcement act he/she is challenging;
- the interested party received, as the case may be, the communication or the notification regarding the establishment of the garnishment. If the garnishment is established on a periodical income, the time limit of appeal for the debtor begins at the latest on the date of the first withholding of these incomes by the third-party garnishee;
- the debtor appealing the enforcement itself has received the writ of execution or the summons either from the date when he/she became aware of the first act of enforcement, in cases where he/she did not receive the writ of execution or the enforcement is implemented without summons.

The appeal against the judicial officer's written statements, when they are not final, can be made within 15 days from the communication.

The appeal regarding the clarification of the meaning, scope or application of the enforceable title, can be made at any time within the limitation period of the right to obtain enforcement.

At the same time, the appeal by which a third party claims a property right or another real right over the seizable asset can be introduced anytime during the enforcement, but not later than 15 days from the sale or from the date of the forced transfer of the asset.

Throughout the enforcement, any party of the enforcement file or any third party can **raise objections to the enforcement**. These objections may target aspects regarding the ownership right, other real rights or a right to use the asset under seizure. Those

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objections can also take into account income which may be the subject of enforcement or issues relating to ascertaining a status quo.

In all these circumstances, the judicial officer is obligated to mention in the content of the minutes, according to art. 679 paragraph (1) letter h) of NCPC, all the objections made by any interested person.

I.5 Postponement, suspension and termination of enforcement

The enforcement procedure may be postponed, suspended or terminated in certain cases determined by law. These situations can be considered incident to the continuation of the forced execution due to the fact that the procedure is interrupted. The issue of these impediments in the Romanian enforcement procedure is tackled in art. 700-701; 703-705 of NCPC. The civil enforcement legislation in Romania also regulates the institution of "limitation of forced execution", which does not prevent the continuation of the seizure, but conditions it on the fulfillment of certain procedures.

Thus, **the postponement** of the forced execution is decreed under the conditions of art. 700 of NCPC, by a written statement decreed by the judicial officer. He/she cannot order the postponement of enforcement unless the procedure for summoning or drawing up advertisements and notices of sale has not been completed or if, within the prescribed period, enforcement cannot be carried out due to the creditor's failure to support the judicial officer in carrying out the enforcement procedure. The forced execution will continue at the term established in the written statement by the judicial officer.

The suspension of the forced execution takes place, as stipulated in the provisions of art. 701 of NCPC, in the cases provided by law, when it was *ordered by the court* or *at the creditor's request*. The court can rule on the suspension of the enforcement according to art. 719 of NCPC, and the admission decision is immediately communicated to the judicial officer. In the event that the creditor wishes to suspend the enforcement, he/she will address a request to the judicial officer, and the latter will rule on this measure accordingly, by a written statement which will be communicated to the debtor. The time limitation of the forced execution is not suspended as long as the forced execution is suspended at the request of the creditor.

The **termination** of the enforcement can occur in the following cases regulated by art. 703 para. (1) of NCPC:

- the obligation provided in the enforceable title is fulfilled, the enforcement expenses are paid, as well as other amounts due according to the law;
- it can no longer be carried out or continued due to the lack of seizable assets or the impossibility of capitalizing on such assets;
- the creditor has given up on enforcement;
- the enforceable title has been cancelled;
- the enforcement has been cancelled.

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In all cases of termination of enforcement, the judicial officer will draw up a written statement with de facto and de jure grounds, mentioning the cause for the termination of enforcement. This written statement will be communicated immediately to the creditor and the debtor.

The limitation of forced execution can be ordered only by the enforcement court, under the conditions stipulated by art. 702 of NCPC. Thus, if the creditor pursues at the same time the seizure of several movable or immovable assets whose value is clearly excessive in relation to the claim to be settled, the enforcement court, at the request of the debtor and after summoning the creditor, can limit enforcement to certain assets. If the request is admitted, the court will suspend the enforcement of the other assets, and the enforcement will be resumed only after the finalization of the project of distribution of the amounts resulting from the performed enforcement and naturally, if there is a residual claim to be recovered.

I.6 Counter enforcement

In certain situations, provided by law, the debtor or a third party may oppose enforcement. This opposition must be justified and must address relevant issues arising from documents opposing the forced execution procedure. Such situations arise, for example, from the debtor's opposition by making available to the judicial officer certain acts which contain a right which may be opposable to enforcement. The debtor's opposition could also be exercised, for example, by his/her refusal to leave the place of enforcement, if necessary, or by acts of violence on his/her part or on the part of other persons who accompany him/her.

The provisions of art. 682 of NCPC regulate a series of measures that can be taken by the judicial officer, in case of opposition to enforcement. If the judicial officer faces opposition in the execution of an enforcement act, at his/her request, the police, military police force and other law enforcement officers are obligated to ensure the effective execution of the enforcement activity, including by removing the debtor or any other person from the place of the enforcement.

In the event that the opposition to enforcement complies with the constitutive elements of a criminal offense, the judicial officer draws up minutes, which he/she will immediately send to the Public Prosecutor's Office attached to the enforcement court. This notification will not prevent the continuation of the enforcement procedure.

I.7 Objects and exemptions on enforcement

The categories of assets and income belonging to the debtor, which are exempt from enforcement, according to Romanian legislation, are divided into two categories. These are, firstly, inalienable assets or income due to their personal character and, secondly, those assets or income which, although alienable, can be seized conditionally in view of the claim which is the object of enforcement.

Also, according to the provisions of art. 630 of NCPC, throughout the enforcement procedure, under the supervision of the judicial officer, the creditor and the debtor can agree that it should be implemented, fully or in part, only on the income or other assets of the debtor, that the sale of the assets subjected to seizure be done by

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agreement or that the payment of the obligation be made in another way permitted by law.

A) **Non-seizable assets for any type of claim, due to their personal character:**

- Personal or household assets indispensable to the subsistence of the debtor and his/her family and objects of worship, if they are not several of the same kind;
- Objects indispensable for people with disabilities and those intended for the care of the sick;
- The food necessary for the debtor and his family for 3 months, and if the debtor deals exclusively with agriculture, the food necessary until the new harvest, the animals intended for subsistence' means and the fodder necessary for these animals until the new harvest;
- The fuel needed by the debtor and his/her family calculated for 3 winter months;
- Personal or family letters, photos and pictures and other such things;
- The assets declared non-seizable in the cases and conditions provided by law.

B) **Conditionally seizable assets in view of the claim which is the object of enforcement:**

- Movable assets which are the object of a division of patrimony assigned to the practice of an authorized profession can be seized only by the creditors whose claims arose in connection with the practice of that profession;
- If certain assets are not assigned to an individual professional patrimony, but serve for the practice of the occupation or for the profession of the natural person debtor, they can only be seized if there are no other seizable assets and only for maintenance obligations or other privileged claims on movables;
- If the debtor works in agriculture, the agricultural inventory, including animals needed for work, fodder for these animals and seeds for the cultivation of the land shall not be seized to the extent necessary for the continuation of agricultural works, unless there is a collateral right or a right securing the claim for these assets.

C) **Non-seizable income for any type of claim, due to its personal character:**

- State allowances and child benefits, sick childcare allowances, maternity allowances, death benefits, state scholarships, per diems, and any other such special allowance, established by law, cannot be seized for any type of debt;

D) **Conditionally seizable assets in view of the claim which is the object of enforcement**:

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- Income from work or any other sums paid periodically to the debtor and intended for ensuring his/her subsistence' means, if they are less than the amount of the national minimum net wage, only the part exceeding half of this amount can be seized;
- The benefits for temporary incapacity of work, compensation granted to employees in the event of employment termination under any legal provision, as well as unemployment benefits, according to law, can only be seized for amounts due as maintenance obligations and compensation for repair of damage caused by death or personal injury, and seizure will be done within the limit of half of that amount.

I.8 (Court) penalties and fines

Another important way in which the court can intervene in the enforcement phase is to levy **judicial fines** or award **damages**.

Thus, according to art. 187 para. (1), point 2 of NCPC, causing the postponement of the trial or of the forced execution by the one in charge of implementing the procedural acts is sanctioned by the enforcement court with a fine from 50 (10 euro) to 700 lei (155 euro).

Moreover, according to art. 188 para. (2) of NCPC, non-compliance by any person with the provisions regarding the normal implementation of enforcement shall be sanctioned by the president of the enforcement court, at the request of the judicial officer, with a judicial fine from 100 lei (22 euro) to 1,000 lei (220 euro).

These legal provisions contain the general framework governing the right of the enforcement court to levy **judicial fines in the enforcement phase**, but the provisions of the enforcement law provide a number of special rules governing this right for various forms of enforcement. Therefore, the court may levy judicial fines in the following situations:

- The non-observance by the public agents of the obligation to commit to the effective implementation of the forced execution, according to art. 659 para. (4) of NCPC;
- The refusal of third parties to transmit to the judicial officer the information necessary for the enforcement, according to art. 660 of NCPC;
- Forcing the appellant, upon request, to pay the judicial fine in case the enforcement court found that the appeal against enforcement was exercised in bad faith, according to art. 720 paragraph (3) of NCPC;
- The unjustified refusal of the judicial officer to receive or to register the request for forced execution or to implement an act of enforcement or to take another measure provided by law, determined and ordered by the enforcement court in resolving the appeal against enforcement, according to art. 720 paragraph (7) of NCPC;
- Sanctioning the debtor in case of non-compliance with the obligation not to use the seized assets;

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- From the moment of the sequestration of the assets, the debtor can no longer use them during the forced execution, under the sanction of a fine provided by art. 745 of NCPC;
- In case of non-compliance by the judicial officer with the term of at least 5 days regarding the drafting and display of advertisements and notices of sale, at the request of the interested party, the enforcement court can levy a fine upon the judicial officer according to art. 762 para. (5) with reference to art. 187 of NCPC;
- The third-party garnishee who, in bad faith, refused to fulfill his/her obligations regarding the garnishment, can be fined, by the decision to validate the garnishment, according to art. 790 para. (9) of NCPC.

Indemnification/compensation is another very important sanction the enforcement court can impose.

Thus, according to art. 189 of NCPC, the person who, intentionally or with basic intent, caused the postponement of the trial or of the enforcement, at the request of the interested party, may be obligated by the court or, as the case may be, by the president of the enforcement court to pay compensation for the material or moral damage caused by the postponement.

As one can notice, the aforementioned article recognizes the right of the court to order the award of damages to the injured party in the following situations:

- Non-observance by the public agents of the obligation to contribute to the effective fulfillment of the forced execution, according to art. 659 paragraph (4) of NCPC;
- Refusal of third parties to transmit to the judicial officer the information necessary for the enforcement, according to art. 660 of NCPC;
- Obligating the appellant, upon request, to pay compensation in case the enforcement court found that the appeal against enforcement was exercised in bad faith, according to art. 720 paragraph (3) of NCPC;
- Unjustified refusal of the judicial officer to receive or to register the request for forced execution or to fulfill an act of enforcement or to take another measure stipulated by law, ascertained and ordered by the enforcement court within the settlement of the appeal against enforcement, according to art. 720 paragraph (7) of NCPC;
- In case of non-compliance by the judicial officer of the term of at least 5 days regarding the drafting and display of advertisements and notices of movables' sale, at the request of the interested party, the enforcement court can levy a judicial fine upon the judicial officer according to art. 762 paragraph (5) with reference to art. 189 of NCPC.

Imposing penalties is a measure of indirect coercion of a person who does not fulfill an obligation to do or to cease doing, or in the matter of the enforcement of judgments and other enforceable titles regarding minors. These penalties may be

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incident in the following circumstances:

– If within 10 days from the communication of the writ of execution, the debtor does not fulfill the obligation to do or to cease doing, which cannot be fulfilled by another person, he/she can be compelled to fulfill it, by imposing penalties, by the enforcement court. The court notified by the creditor can obligate the debtor, by final written statement, given with the summoning of the parties, to pay, in favor of the creditor, a penalty from 100 lei (22 euro) to 1,000 lei (220 euro), for each day of delay until the fulfillment of the obligation stipulated in the enforcement title, when the obligation is not assessable in money and between 0.1% and 1% for each day of delay, calculated at the value of the object of the obligation, when the obligation has an object assessable in money.

If within 3 months from the date of communication of the written statement to impose the penalty, the debtor does not fulfill the obligation stipulated in the enforceable title, at the request of the creditor, the court which ordered the debtor to pay the penalty, will set the final amount due according to this title, with the enforceable written statement, given with the summoning of the parties.

The penalty can be canceled, in whole or in part, or reduced, if the debtor fulfills the obligation stipulated in the enforceable title or, as the case may be, for other just cause, by appeal against enforcement.

- Also, in the matter of enforcement of judgments and other enforceable titles regarding minors, if the debtor does not comply with the summons of the judicial officer, the latter, at the request of the creditor, will notify the enforcement court to impose penalties, within the procedure mentioned above.

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

Regarding the access to information related to the debtor's domicile and assets, the provisions of art. 660 of NCPC distinguishes between the obligation of third parties who owe sums of money or assets to the debtor and who may be subject to seizure, and public institutions, credit institutions and any other natural or legal persons.

a) **Those who owe sums of money to the pursued debtor or hold his/her assets which are object of seizure**. In this sense, at the request of the judicial officer, those who owe sums of money to the pursued debtor or hold his/her assets, subject to seizure according to law, have the duty to provide all the information necessary for the enforcement. They are required to declare the extent of their obligations to the pursued debtor, any proceedings that could affect them, as well as assignments of debs, power of attorney or previous sequestrations, if applicable;

b) **Public institutions, credit institutions and any other persons.** Also, in this situation, at the request of the judicial officer, the tax authorities, institutions, banks and any other persons are obligated to communicate, immediately, in writing, the data and information necessary for the enforcement, even if special laws stipulate otherwise. At the request of the judicial officer or of the interested party, the enforcement court can impose a judicial fine or award damages.

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The judicial officer is obligated to ensure the secrecy of the information received, unless the law stipulates otherwise. This information may only be used for the purpose for which it was requested, and its disclosure to third parties or its use in order to create a personal database is strictly prohibited by law.

PART II: ORGANIZATION OF ENFORCEMENT

II.1 The status of the judicial officer

The judicial officer is vested, according to the provisions of art. 2 para. (1) of Law no. 188/2000 on Judicial Officers, with the authority to perform a service of public interest, to perform the procedure through which the creditor, holder of the right recognized by a court decision or by an enforceable title, succeeds in forcing his/her debtor to perform the service written in the enforceable title, if he/she does not intend to execute his/her obligation voluntarily. Judicial officers are vested with the authority to also perform other duties assigned to their jurisdiction by law.

The register of the judicial officers' offices and the works regarding the appointment or termination of the position of judicial officer within the enforcement system in Romania is collected by the Ministry of Justice, through the specialized directorate.[11]

The number of judicial officers is established and updated by the Minister of Justice, usually in the first trimester of each year, in consultation with the Council of the National Union of Judicial Enforcement Officers, depending on the local requirements determined by the extent of the territory, the volume of activity and the number of inhabitants. The number of judicial officers is established so that at least one judicial officer position is provided for 15,000 inhabitants. The number of judicial officers' positions in a court jurisdiction shall not be less than 3 and the Updating Order shall include a series of specific information.[12]

Moreover, when establishing the number of judicial officers, the number of trainee judicial officers who have passed the certification examination will also be taken into account.

If the general requirements established by Law no. 188/2000 on Judicial Officers, republished, are met, the quality of permanent judicial officer can be acquired only by certain persons as specifically provided by the normative act.[13]

[11] According to art. 13 of Law no. 188/2000 on Judicial Officers, republished, with subsequent amendments and completions.
[12] The order of the Minister of Justice will include the following elements:
a) the number of judicial officers in office;
b) the number of trainee judicial officers in office;
c) the number of vacancies for the certification examination;
d) the number of vacancies for changes of headquarters;
e) the number of vacancies for persons who have held a specialized judicial position for 3 years and have won the contest or the professional entrance examination and for the persons who have held for 5 years the position of judge, prosecutor or lawyer;
f) the number of vacancies for trainee judicial officers.
[13] Namely: a) by trainee judicial officers, after the completion of the internship period;
b) by the persons who can prove a 3 years' seniority in a specialized judicial position;

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Acquiring the quality of permanent judicial officer is a very important aspect on the one hand, for the enforcement system and, on the other hand, for the person who tends to hold this position.

Therefore, obtaining the quality of permanent judicial officer in Romania can be achieved through three distinct situations, as provided by law. Thus, the quality of permanent judicial officer can be acquired by the trainee judicial officer, after the expiry of the internship period, but also after passing the capacity examination. Also, persons who can prove a 3-year seniority in a specialized judicial position and who have won the contest or passed the professional entrance examination can become permanent judicial officers. The same quality can be acquired by persons who have held the position of judge, prosecutor, or lawyer for 5 years, provided that they have passed the professional certification examination. However, these persons are exempt from the contest or entrance examination for the judicial officer profession.

As for any judicial profession important to the internal judicial system, the organization of a contest or examination for acquiring the quality of permanent judicial officer presumes the fulfillment of special formalities.

As we have already mentioned, the judicial officers who have completed their internship, but also the persons who prove a 3-year seniority in a specialized judicial position can participate in the contest or examination for acquiring the quality of permanent judicial officer, subject to availability at national level. The organization of the contest or examination for these persons is carried out on different dates, during each year.

For trainee judicial officers, this examination or contest is synonymous with a capacity examination, and for persons who can prove a 3-year seniority in a specialized legal position, it represents the possibility of acquiring the quality of permanent judicial officer. According to art. 5 para. (2) of the Regulation implementing Law no. 188/2000 on Judicial Officers, republished, the vacancies for the certification examination are established, accordingly, in the court jurisdictions where the trainee judicial officers have completed their internship. The Council of National Union of Judicial Enforcement Officers will send to the Ministry of Justice the necessary vacancies for the persons who will take the certification examination, in order to be taken into account when updating the number of judicial officers.

The commissions set up for the organization of the contest or the capacity examination are identical to those shown above, in terms of acquiring the quality of trainee judicial officer.

Thus, the capacity examination of the trainee judicial officers who meet the legal requirements for participation will consist of a theoretical test, under the conditions provided in art. 22 of the Regulation, and a practical test, which will consist of drawing up an enforcement procedural act.

As we have mentioned before, once a year the National Union of Judicial Enforcement

c) by the persons who have held for 5 years the position of judge, prosecutor or lawyer, provided that they have passed the professional certification examination.

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Officers organizes the capacity examination for the trainee judicial officers who have completed their internship.

The rejection or, as the case may be, the non-presentation of the trainee judicial officer at two consecutive capacity examinations entails the termination of his/her employment contract and the loss of the quality of trainee judicial officer.[14]

The second test of the exam will be a practical one and will consist of drawing up an enforcement procedural act.

The grading of the practical test is done by awarding grades from 0 to 10, the average of the capacity examination being established on the basis of the arithmetic mean of the grades obtained in the two tests.

The applications of the candidates, as well as the proofs of fulfillment of the conditions provided in art. 15 of the Law and the report of the mentoring judicial officer shall be submitted 20 days before the date of the examination at the Judicial Officers' Chamber in whose jurisdiction the candidate has completed the internship.[15]

In case of rejection of the application for registration, the board of directors will communicate the rejection notice to the applicant trainee judicial officer within 24 hours from the elaboration of the motivated notice.

The candidate can file an appeal against the negative notice within 48 hours from the notification to the commission attached to the National Union of Judicial Enforcement Officers and set up for the purpose of verifying the files.

The Commission will examine the appeal within 48 hours from receiving it. The decision of the commission is final and is communicated both to the candidate and to the board of directors of the Judicial Officers' Chamber.

Each candidate may expressly formulate in the application the order of options in case of obtaining a promotion grade which does not allow him/her to occupy the position for which he/she has primarily applied. Options can only be made regarding the positions on the updating list.

The examination commission is the commission constituted under the conditions of the regulation for the elaboration of the subjects and the grading of the examination papers.

[14] The capacity examination will consist of a theoretical test, from the subjects: civil law, civil procedural law, commercial law and the organization of the profession of judicial officer, which will be sent to the Judicial Officers' Chambers at least 30 days before the examination date and will be posted at their headquarters.

[15] The report of the judicial officer - employer will include:
a) the date of employment of the trainee;
b) the conduct of the trainee judicial officer during the internship;
c) the concern for professional training;
d) the volume of activity by categories of operations;
e) the behavior of the trainee judicial officer;
f) the motivated proposal for admitting or rejecting the registration notice for the capacity examination.

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The candidate who obtained the promotion grade, which is lower than another candidate's who competed for the same position, will communicate, within 15 days from the posting of the final results, to the Judicial Officers' Chamber the maintaining of the options in the application regarding the vacancies, when appropriate.

The redistribution of vacancies is performed by the Council of the National Union of Judicial Enforcement Officers, in plenary session, in the meeting for the validation of the results.

The Council of the National Union of Judicial Enforcement Officers will proceed, within 5 days from resolving the appeals or from the redistribution, with the validation of the capacity examination results.

Within 5 days from the validation of the results, the Council of the National Union of Judicial Enforcement Officers will submit to the Minister of Justice the proposals for the appointment of judicial officers.

On the declared vacancies, the National Union of Judicial Enforcement Officers will organize annually the entrance examination for the profession of judicial officer for the persons who have held specialized judicial positions for 3 years.

In this case, the provisions regarding the organization and development of the contest or the examination for acquiring the quality of trainee judicial officer and of the capacity examination are incident, the provisions of art. 18-21, 23-36, 39 and 44 of the Regulation being applicable accordingly.

This procedure and the commissions established on the occasion of the contest or the examination for acquiring the quality of trainee judicial officer have been presented in the previous lines.

However, we consider it necessary to specify only the fact that this contest or examination will consist of a theoretical test and a practical one. The Ministry of Justice and the Council of the National Union of Judicial Enforcement Officers will establish the theoretical topics.[16]

Thus, the persons who are admitted after winning the contest or passing the entrance examination within the profession of judicial officer will be appointed at the proposal of the Council of the National Union of Judicial Enforcement Officers, by order of the Minister, based on the report prepared by the specialized directorate within the Ministry. On this occasion, the compliance with the appointment requirements provided by law will also be verified. The order of the Minister of Justice shall also mention the court in whose jurisdiction the office of the judicial official shall have its headquarters.

The legal framework specific to the organization of the judicial officer profession in Romania establishes the possibility for some persons who meet the common requirements established by art. 15 letters a) -f) of Law no. 188/2000 on Judicial Officers, republished, but also a 5-year seniority in the position of judge, prosecutor

[16] The themes will be chosen from the following subjects: civil law, civil procedural law, commercial law and the organization of the profession of judicial officer.

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or lawyer, provided that they have passed the certification examination in those professions, to obtain the quality of judicial officer, without participating in the contest or entrance examination in this profession. In this sense, art. 46[1] of the Regulation implementing Law no. 188/2000 on Judicial Officers establishes the fact that, in order to fill in the vacancies after the appointment in the position of judicial officer of the persons who won the contest or passed the entrance examination in the profession for persons who have held for 3 years a specialized judicial position, the persons provided in art. 15 letter g) of the final thesis of Law no. 188/2000, republished, with subsequent amendments and completions, can submit a request.

Since it is a known fact that the Minister of Justice establishes and updates the number of judicial officers, usually in the first trimester of each year, in consultation with the Council of the National Union of Judicial Enforcement Officers/UNEJ Council, according to art. 5 para. (1) of the Regulation implementing Law no. 188/2000 on Judicial Officers, republished, when appointing to positions declared vacant, the requests of persons who meet the conditions established by law shall be taken into account in order to acquire the quality of judicial officer without participating in the contest or entrance examination.[17]

The Judicial Officers' Chambers create the files containing each application and its annexes, which they communicate to the National Union of Judicial Enforcement Officers within 5 days from the date of registration.

The files of the candidates will be submitted to the Ministry of Justice, each accompanied by the consultative report of admission or rejection, drawn up by the National Union of Judicial Enforcement Officers. Also, the centralized situation of the candidates, their options and the number of options for each position will be transmitted to the Ministry of Justice.

[17] The application, in which a person may state a primary option and several secondary options for a position, must be accompanied by the following documents:

- ✓ legalized copy of the bachelor's degree in judicial studies;
- ✓ copy of the identity document;
- ✓ affidavit that he/she has full exercise capacity;
- ✓ criminal record;
- ✓ recommendation from the former employer;
- ✓ a medical certificate attesting to the fact that he/she is medically fit to hold the position of judicial officer;
- ✓ proof that he/she has not been disciplined in the last 5 years prior to the year of submission of the application for appointment in the judicial officer position, nor in the respective year; if he/she is no longer in office, proof that he/she has not ceased his/her activity for reasons attributable to him/her;
- ✓ proof that he/she has graduated from specialization courses, where applicable;
- ✓ proof that he/she has held the position of judge, prosecutor or lawyer for a period of at least 5 years and that he/she has passed the certification examination in this profession.

This application and its supporting documents, according to art. 461 of the Regulation, shall be submitted to the Judicial Officers' Chamber in whose jurisdiction the locality of the candidate's residence is situated, within 15 days from the date of publication in the Official Gazette of Romania, Part III, of the list of vacancies. The list is posted at the headquarters of the Chambers, in a place which is visible and accessible to the public and is posted on the web pages of the Ministry of Justice and the National Union of Judicial Enforcement Officers.

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If the number of applications for filling in the vacancies is greater than the number of vacancies in the jurisdiction of a court, the order of priority of the applicants will be determined in compliance with clearly established criteria.[18]

After the appointment by order of the Minister of Justice, the judicial officer must take the oath before the Minister of Justice and the President of the National Union of Judicial Enforcement Officers or their representatives.

The oath has the following content: "*I swear to respect the Constitution and the laws of the country, to fulfill my duties with honor and probity, conscientiously and without bias, and to preserve the professional confidentiality. So, help me God!*".

Regarding the jurisdiction specific to the activity carried out by the judicial officers, we can state that it is in full accordance with the public service mission that they must fulfill, according to the law. This jurisdiction is provided both by NCPC and by Law no. 188/2000 on Judicial Officers, republished and updated.[19]

Judicial officers, holders of this position, may not relinquish their jurisdiction and may not entrust it to other persons except for special situations. The most common case is that of the ***delegation of jurisdiction*** established by the provisions of art. 54 of the Regulation implementing the Law on Judicial Officers.

The **delegation of jurisdiction** consists in the appointment of a judicial officer to exercise certain duties within the jurisdiction of the holder. However, an act of delegation from the Chamber in which that case exists is necessary.

Given the above-mentioned, we can highlight the fact that the main forms of jurisdiction of a judicial officer are: *material jurisdiction*, which means the specifics of the duties of such an authority, and *territorial jurisdiction*, which is determined by the space limits of his/her duties, as provided by law.

A) The material jurisdiction of the judicial officers: Acting to perform the public service of justice, judicial officers have a material jurisdiction recognized by law. The material jurisdiction of the judicial officers, being synonymous with the sum of the duties recognized to them by law, may manifest in different activities.

First of all, NCPC regulates the fact that the forced execution of any enforceable title, excepting those having as object revenues due to the general consolidated budget or the budget of the European Union and the budget of the European Atomic Energy Community is performed only by the judicial officer, even if special laws stipulate

[18] These criteria consider the following:
- ✓ not to have been disciplined in the last 5 years prior to the year of submitting the application for appointment in the judicial officer position, nor in that year. If he/she is no longer in office, the condition that he/she has ceased his/her activity for reasons not attributable to him/her must also be fulfilled;
- ✓ to have the domicile in a locality in the jurisdiction of the court in which he/she requests the appointment;
- ✓ to have graduated from specialization courses;
- ✓ or other relevant aspects.

[19] See especially art. 6 of Law no. 188/2000 on Judicial Officers.

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otherwise.[20]

If we made an analogous interpretation of this text, we could easily infer the idea that the judicial officer has a general material jurisdiction in the execution of all enforceable titles which ascertain an obligation of a civil nature, excepting those which have a fiscal character.

More edifying are the provisions found in the content of Law no. 188/2000 on Judicial Officers, republished and updated, which, in equal measure, determine the material jurisdiction of the judicial officers, by presenting their duties.[21]

B) The territorial jurisdiction of the judicial officers: In the case of the territorial jurisdiction specific to judicial officers in Romania, the issue is regulated by a series of norms provided both by the law on the organization and functioning of this profession, and by NCPC.

Thus, the judicial officers fulfill their duties in the jurisdiction of the appellate court within the area in which the court next to which they operate is located, unless otherwise provided by law. The mentioned text determines the general territorial jurisdiction of the judicial officers, in the sense that it is exercised only within the limits of the territorial jurisdiction of the "*appellate court within the area in which the court next to which they operate is located, unless otherwise stipulated by law*."[22] This principle, established by the law, offers the judicial officers a much wider territorial area of action, knowing that the previous regulations determined a jurisdiction only at the level of the courts they were attached to. Also, this jurisdiction only creates a much greater competition between the judicial officers operating near the respective appellate court, which has as final goal of obtaining a much more efficient enforcement activity.

Furthermore, the territorial jurisdiction of the judicial officers is determined on the one hand by their duties provided by Law no. 188/2000 on Judicial Officers, and on the other hand, by the regulations of the Civil Procedure Code in this matter.[23]

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[20] See the provisions of art. 623 of the New Civil Procedure Code.

[21] For instance, art. 7 of Law no. 188/2000 on Judicial Officers establishes the following duties corresponding to the specific material jurisdiction:
a) the enforcement of the civil provisions from the enforceable titles;
b) the notification of judicial and extrajudicial documents;
c) the amicable recovery of any claim;
d) the application of precautionary measures ordered by the court;
e) findings of fact under the conditions provided by the Civil Procedure Code;
f) drawing up the fact-finding reports, in case of the real offer followed by the registration of the amount by the debtor, according to the provisions of the Civil Procedure Code;
g) drawing up, according to the law, of the protest related to the non-payment of bills of exchange, promissory notes and checks;
h) any other acts or operations attributed by law to their jurisdiction (for example: the sale by public auction of the asset subject to the judicial partition procedure, according to the provisions of art. 991 and art. 992 of NCPC; enforcement of the confiscation of sums of money stipulated in the content of criminal sentences; consultations regarding the establishment of enforcement acts).

[22] See the provisions of art. 8 of Law no. 188/2000, republished and updated.

[23] In this regard, see art. 9 of Law no. 188/2000, republished and updated.

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Thus, in case of enforcement of the civil provisions from the enforceable titles, the judicial officer from the jurisdiction of the appellate court in whose territorial area the enforcement is to be carried out has jurisdiction, under the conditions provided by the Civil Procedure Code. Also, judicial officers may have a similar jurisdiction in case of ascertaining findings of fact, under the conditions provided by the Civil Procedure Code.

Thus, we must also take into account the particular rules incident to the territorial jurisdiction of the judicial officers, provided by NCPC.

First of all, a special provision regarding the territorial jurisdiction of the judicial officers establishes that judgments and other enforceable titles are executed by the judicial officer from the jurisdiction of the appellate court.[24]

Furthermore, a rule specific to competence is regulated in NCPC and in the matter of garnishment.[25]

However, a particular provision regards the registration of the request for seizure of immovable assets.[26] Knowing that the judicial officer from the jurisdiction of the appellate court in whose area the immovable asset belonging to the pursued debtor or to another person has the jurisdiction in this matter, if a mortgaged immovable asset is being pursued, the approval of the seizure of that asset will be requested by the judicial officer from the enforcement court in whose jurisdiction the respective immovable asset is found. According to this provision, the enforcement court will no longer be the court in the jurisdiction of which the judicial officer's office is located, but the court in the jurisdiction of which the pursued immovable asset is located.

As we can notice, the Romanian judicial officer has a general territorial jurisdiction at

[24] The provisions of art. 652 of NCPC establish a set of rules specific to territorial jurisdiction, as follows:
a) in the case of seizure of immovable assets, of seizure of the fruits which have taken roots and of direct enforcement of immovable assets, the judicial officer from the jurisdiction of the appellate court where the immovable asset is located;
b) in the case of seizure of movable assets and direct enforcement of movable assets, the judicial officer from the jurisdiction of the appellate court where his/her domicile or, as the case may be, the debtor's headquarters is located;
c) in case of enforcement of obligations to do and of obligations to cease doing, the judicial officer from the jurisdiction of the appellate court where enforcement is to be performed.
Also, if the seizable assets, movable or immovable, are in the jurisdiction of several appellate courts, any of the judicial officers operating within the area of these courts has the jurisdiction for implementing the enforcement, including in respect to the seizable assets within the area of the other appellate courts.
At the same time, if the movable asset which is the object of the seizure or of the direct enforcement has been moved during the enforcement procedure, the judicial officer who started the enforcement procedure will have territorial jurisdiction. In this case, the judicial officer could extend his/her territorial jurisdiction even outside the appellate court within the area where he/she performs his/her activity.
[25] The provisions of art. 782 of NCPC show that the garnishment is established at the request of the creditor by a judicial officer whose office is located in the jurisdiction of the appellate court where the debtor has his/her domicile or headquarters.
[26] See art. 819 of NCPC.

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the level of the appellate court in whose jurisdiction he/she has his/her office registered, unless the movable asset which is the object of the seizure or of the direct enforcement has been moved during the enforcement procedure, in which case he/she may also act within the territorial jurisdiction of another appellate court.

Regarding the **representation**, on a territorial level, within the profession of judicial officer there is and operates a **Chamber of Judicial Officers**. In this sense, in the jurisdiction of each appellate court, there is a Chamber of Judicial Officers, with legal personality.[27]

All the judicial officers from the jurisdiction of the respective appellate court belong to the Chamber of Judicial Officers.

The Chamber of Judicial Officers has its own stamp, which includes at least the name of the Chamber and the coat of arms of Romania, and its headquarters is in the same locality where the Appellate Court to which it is attached is located.

Moreover, the Chamber has its own patrimony and budget. The budget of the Chambers consists of the money contributions of the judicial officers, the quota of 20% of the registration fee for the contest or examination for the position of judicial officer, the fee for receiving the registration notice of the judicial officer's office at the appellate court, donations and sponsorships, as well as from any other amounts of money lawfully acquired.

The totality of the judicial officers in office that compose such a Chamber may form the **General Assembly,** the most important governing body of this representative forum. Also, the Chamber of Judicial Officers is headed by a **Board of Directors** consisting of a **president**, a **vice-president** and **3-7 members**.[28] At the same time, a **representative for the Council** of the National Union of Judicial Enforcement Officers will be elected from among the members of that Chamber.

The representative body of the judicial officer profession in Romania, at national level, is the **National Union of Judicial Enforcement Officers**.

In this sense, it should be noted that judicial officers in Romania compose the National Union of Judicial Enforcement Officers, which is a professional organization with legal personality, composed of all the judicial officers appointed by order of the Minister of Justice.[29]

According to this legal text, the governing bodies of the National Union of Judicial Enforcement Officers are: The **Congress**, the **Council** and the **President**. It is useful to remember that within the Union, there is also the **Executive Bureau** composed of a President, 2 Vice-Presidents and 2 members of the Council of the Union.

The Union has its own patrimony, budget, seal and logo, as well as specialized auxiliary staff, necessary for the good performance of the activity, and the main headquarters of this representative body of the profession is in Bucharest. The number of such

[27] See art. 26 of Law no. 188/2000 on Judicial Officers, republished and updated.
[28] For more details, see art. 27 para. (1) of Law on Judicial Officers.
[29] See art. 29 of Law no. 188/2000 on Judicial Officers, republished and updated.

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persons employed within the Union, as well as their remuneration, shall be determined by the President, with the approval of the Council of the Union.

Also, within the Union a **House Insurance for Civil Liability Insurance of the Judicial Officers** is organized and operates, whose organization and functioning we shall present in the following chapters. At the same time, the **Electronic Register for the Advertisement of Sales of Assets subject to Enforcement** is created within the Union, functioning as an information system through which all the judicial officers advertise at national level the sale of movable assets worth more than 2,000 lei and immovable assets under enforcement procedure.

In order to carry out the continuous training and improvement of judicial officers, in 2005, the National Union of Judicial Enforcement Officers considered it necessary to establish the **National Center for Training and Improvement of Judicial Officers**, constantly coordinating and financing its activity.

Like any public office holder, the judicial officer also benefits from a series of rights and obligations specific to the activity exercised, regulated by the provisions of Law no. 188/2000 on Judicial Officers, republished, with subsequent amendments and completions.

The civil liability of the judicial officer can be accountable for the damage caused by the way in which he/she exercises his/her professional obligations and is guaranteed by the insurance house constituted according to the law.[30]

At the beginning of his/her activity, the judicial officer becomes a member of the insurance house for civil liability insurance, which operates within the National Union of Judicial Enforcement Officers according to its own statute.

The judicial officer has **disciplinary liability** for a series of violations regulated by the special law.[31]

The disciplinary action is exercised by the Minister of Justice or by the Board of Directors of the Chamber of Judicial Officers and is judged by its Disciplinary Council, consisting of 3 members elected by the General Assembly of the Chamber of Judicial Officers, for a 3 year-period.

For suspension from the job or exclusion from the profession, a preliminary investigation is mandatory, which is carried out by general inspectors from the specialized department within the Ministry of Justice or by the Board of Directors of the Chamber of Judicial Officers.

[30] See art. 35 para. (1) of Law no. 188/2000 on Judicial Officers.
[31] The provisions of art. 47 of Law no. 188/2000 on Judicial Officers establish the following violations:
a) non-observance of professional confidentiality;
b) violation of incompatibilities and prohibitions stipulated by law;
c) committing deeds which harm the honor, professional probity or good morals;
d) non-fulfillment of the obligations regarding the professional training of the trainee judicial officers employed on a contract basis;
e) systematic delay and negligence in carrying out their works;
f) unjustified absence from the office.

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If the Minister of Justice exercises disciplinary action, he/she may notify the Board of Directors of the Chamber in the event that disciplinary violations are found during the professional control performed by specialized inspectors.

If disciplinary action is exercised by the Board of Directors of the Chamber of Judicial Officers, it may act on its own initiative or be notified by the Council of the National Union of Judicial Enforcement Officers through its president or his/her replacement.

If the judicial officer has been detained, remanded in custody or if criminal proceedings have been instituted against him/her, the Minister of Justice, ex officio or at the proposal of the Council of the National Union of Judicial Enforcement Officers, shall suspend him/her until the settlement of the criminal proceedings, according to law.

The Minister of Justice orders the exclusion from the profession of the judicial officer, starting with the date the judgment of conviction becomes final.

In case of suspension from the job or exclusion from the profession, the stamp, ID card, records and works of the suspended or excluded judicial officer are to be submitted, within 5 days, under signature, to the Chamber of Judicial Officers in whose territorial jurisdiction his/her office is located. The Chamber of Judicial Officers has the obligation to ensure the continuation of the unexecuted works.

All expenses incurred in connection with the settlement of the case shall be borne by the Chamber of Judicial Officers if the action is dismissed or by the judicial officer if the action is allowed.

II.1.1 The office in which the judicial officer carries out his/her activity

The activity of judicial officers is exercised within an office, in which one or more associated judicial officers may work, with appropriate auxiliary staff. One or more judicial officers' offices may operate in the jurisdiction of a court.

The coordination and control of the activity of judicial officers is exercised by the Ministry of Justice, at the proposal of the Council of the National Union of Judicial Enforcement Officers, which also establishes the number of judicial officers and judicial officers' offices in the localities in the jurisdiction of each court and in Bucharest municipality. The criteria taken into account when establishing the number of judicial officers and of the offices of judicial officers are given by the local requirements determined by the extent of the territory, the number of inhabitants, the volume of activity, so that at least 15,000 inhabitants have at least one judicial officer. The number of judicial officers in the jurisdiction of a court shall not be less than 3. Also, when determining the number of judicial officers and of judicial officers' offices, the number of trainee judicial officers who have passed the capacity examination shall be taken into account. The number of judicial officers will be updated each year by the Minister of Justice in consultation with the Council of the Union.

The office of the judicial officer must be registered within 90 days from the issuance of the appointment order of the Minister of Justice. The registration is done at the

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request of the judicial officer.[32]

Upon registration of the office, the judicial officer will present the stamp and the specimen signature.

For true and just cause, the 90-day term may be extended with the approval of the Minister of Justice and the request for extension of the term shall be submitted, together with the supporting reasons, to the Chamber of Judicial Officers to which the office belongs.

The special register in which the judicial officers are registered is kept by the first court clerk of the Appellate Court in whose jurisdiction his/her office is located and the operation will be performed at the request of the judicial officer. The first court clerk will issue a certificate attesting the registration within three days.

In order to have a clear record of the existence of judicial officers' offices, the documentation submitted at registration shall be kept in separate files for each office.

The judicial officer's office has its own archive and register and will keep its financial-accounting records according to the law.

The registration of the activity of the judicial officers' offices, on the whole, is a particularly important aspect for the proper functioning of the enforcement mechanism at national level. Through a clear and transparent inventory of each enforcement office, it is possible to identify more easily, on the one hand, the enforcement acts performed by the judicial officer, and on the other hand, the annual volume of activity which can be centralized at national level and on the basis of which clear benchmarks can be created regarding the evolution of the enforcement activity at national level.

In this sense, the Regulation implementing the Law on Judicial Officers establishes specific norms that evoke the documents necessary to register the activity of these authorities, but also technical ways of using these documents.[33]

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[32] According to the provisions of art. 7 para. (2) of the Regulation implementing Law no. 188/2000, the following will be attached to the application for registration:
- the decision to appoint the judicial officer;
- proof of the existence of the office headquarters - deed of ownership, lease, or other act;
- the confirmation of the Board of Directors of the Chamber of Judicial Officers regarding the fact that the office has the space needed for the activity and the preservation of the archive in good conditions.

[33] The provisions of art. 84. of the Regulation implementing Law no. 188/2000 establish the fact that the judicial officer, for the proper functioning of his/her office, will keep the following records:
- General registry for keeping the record of the files. The form of this registry is regulated by the provisions of art. 85 of the Regulation implementing the Law on Judicial Officers, in the sense that all the works of the judicial officer will be registered in the general registry;
- General registry for keeping the record of the notifications. The existence of this registry in the activity of a judicial officer's office is regulated by the provisions of art. 84 of the Regulation implementing the Law on Judicial Officers;
- The list of documents of the general registry for keeping the record of the files. According to the provisions of art. 86 of the Regulation implementing the Law on Judicial Officers, there is an alphabetical list of documents of the general registry for keeping the record of the files;
- The list of documents of the general registry for keeping the record of the notifications. This registry is not stipulated in any legal norm but, in practice, it has a special utility, i.e. an easier identification of

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Regarding the fiscal registration of the office of a judicial officer, it will be organized according to the norms issued in this respect by the Council of the National Union of Judicial Enforcement Officers, with the approval of the Minister of Justice.

The documents drawn up by the judicial officers will be highlighted in the specific registers, mentioning at the same time the established fee.

If there are several associated judicial officers in the respective office, the works and fees on behalf of each judicial officer will be highlighted separately in these registers, unless, according to the Private Partnership Agreement, it is stipulated that the said registers be kept separately by each judicial officer.

All the registers of the judicial officer, before use, will be numbered, sealed and signed by the judicial officer, concluding in this respect minutes on the first page of the register. Also, at the end of the register or of the calendar year, closing minutes will be drawn up, under the last entry.

In order to carry out his/her works, the judicial officer may conclude employment contracts with one or more secretaries and, as the case may be, with other auxiliary staff and, if necessary, he/she may conclude civil contracts with external collaborators.

II.2 Supervision over enforcement

The procedure for controlling the activity of the judicial officers, regulated by the Romanian legislation, assumes various forms, namely:

- ***disciplinary control***, which may occur when the judicial officer commits certain disciplinary violations, materialized in certain acts which violate professional duties, some prohibitions provided by law or rules of professional ethics and deontology. This type of control is exercised only by specially constituted authorities within the profession;

- ***administrative-professional control,*** which involves, among others, a judgment on the technical, political, moral value of the behavior of the judicial officers subject to examination or expertise. This type of control may concern aspects related to the administrative organization of the judicial officers' office or the manner of fulfilling his/her professional duties and may be performed both by the authorities with self-control responsibilities established within the profession, and by the specialized inspectors within the Ministry of Justice;

- ***jurisdictional control*** can be exercised only by authorities outside the profession, through the courts. This type of control concerns the effect of acts or enforcement measures performed by the judicial officers in the exercise of their professional duties.

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the parties which have been the subject of a notification registered in the general registry for keeping the record of the notifications;
- Registry of values. The content and form of this registry are established by the provisions of art. 87 of the regulation;
- Correspondence registry. According to the provisions of art. 88 of the Regulation implementing the Law on Judicial Officers, the official correspondence of the judicial officer, not registered in another registry, is entered in the correspondence registry.

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Overcoming all these general considerations, we will try to highlight the main theoretical aspects of the controls on the activity of judicial officers. In addition to these theoretical nuances regulated by domestic law, we will exemplify the most important considerations on these types of controls, incident also to the legislation of other democratic states, in which the liberal status of the judicial officer is implemented.

II.2.1 Disciplinary control of the activity of judicial officers

The disciplinary control of the activity of judicial officers is presented as one of the most important forms of assessment specific to this profession. As we have mentioned before, this type of control concerns situations where the judicial officer commits certain disciplinary violations, materialized in acts which violate certain professional duties, prohibitions provided by law or rules of professional ethics and deontology.

The settlement procedure for this type of control is provided by the provisions of the Regulation implementing Law no. 188/2000 on Judicial Officers, republished and updated. In this sense, in case of disciplinary violations provided by law, the Board of Directors of the Chamber of Judicial Officers or the Minister of Justice shall exercise **disciplinary action** within 1 year from the date on which they became aware of the violation, but no later than 3 years from the date of its commission.[34]

The disciplinary action is judged by the Disciplinary Council elected by the General Assembly of the Chamber of Judicial Officers for a period of 3 years, which consists of 3 members. Also, the General Assembly of each Chamber will elect during the term in office the members of the Disciplinary Council and a number of 3 alternates. The members of the Council of the National Union of Judicial Enforcement Officers, the presidents and the vice-presidents of the Boards of Directors of the Chambers of Judicial Officers cannot be members of the Disciplinary Council.

After confirmation by the Board of Directors of the Chamber of Judicial Officers, the Disciplinary Council shall appoint its President and Vice-President. This Disciplinary Council has the role of a panel of judges with a jurisdiction determined by law.

The activity of the Disciplinary Council is carried out independently and is not subordinated to the Board of Directors of the Chamber. The court hearings are held at the headquarters of the Chamber of Judicial Officers. These court hearings may be attended by any judicial officer from the respective Chamber. With regard to the registration of the works of the Disciplinary Council, it will be kept by a secretary.

The Disciplinary Council has the competence to judge any judicial officer within the respective Chamber for the violations provided in the Law on Judicial Officers.

In case of exercising a disciplinary action, **preliminary investigation** is mandatory only for suspension from the job or exclusion from the profession of a judicial officer and is carried out by specialized inspectors from the Ministry of Justice, when initiated by the Minister of Justice or by the Board of Directors of the Chamber, when the action was taken by the latter. In our opinion, this preliminary investigation is necessary

[34] See in this regard art. 60 of the Regulation implementing Law no. 188/2000 on Judicial Officers.

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whenever a disciplinary action is exercised because the gravity of the deed can only be assessed after a thorough verification and not according to de facto and de jure appearances.

In view of the preliminary investigation of a judicial officer, the Minister of Justice shall act on his/her own initiative, and if the disciplinary action is exercised by the Board of Directors of the Chamber of Judicial Officers, they may act on their own initiative or be notified by the Council of the National Union of Judicial Enforcement Officers through its President or his/her replacement.

Within 60 days from the date of the notification, respectively of the self-notification, the Minister of Justice, through specialized inspectors, or the Board of Directors, carries out the preliminary investigation, by investigating the respective judicial officer and informs him/her of the content of the file, while taking or not taking disciplinary action.

The judicial officer against whom the disciplinary action was taken has the right to know all the documents of the case, to request evidence in his/her defense and, if necessary, to be assisted by a lawyer.

The refusal of the investigated judicial officer to make statements or to be present during the investigation is established in the minutes and does not prevent the completion of the investigation.

If it is found that the investigated judicial officer has committed one of the disciplinary violations stipulated in art. 44 of the Law on Judicial Officers, the Minister of Justice or, as the case may be, the Board of Directors, notifies the Disciplinary Council.

If the Disciplinary Council is notified, its President shall register the case, set the date of the hearing, summon the parties and, where appropriate, the witnesses.

If, although legally summoned, the judicial officer is not present at the deadline, the trial may be held in absentia.

At the deadline set for the court hearing, after the President reads the content of the notification, the parties and possible witnesses are heard and other proof and evidence necessary for the settlement of the case is administered.

The declarations shall be recorded in writing and shall be signed by the parties, as well as by the President of the Disciplinary Council. After the administration of the evidence, the President gives the floor to the parties, and when he/she deems it necessary, he/she may also give the floor to other persons attending the hearings, once their identity has been established.

The parties have the obligation to provide all the requested information and documents at the request of the President of the panel.

If the trial of the case is postponed, minutes shall be drawn up, the content of which shall state the reasons which led to the postponement.

If it is found that the judicial officer has committed the disciplinary violation, the panel shall order by a **judgment** the imposition of one of the sanctions provided in art. 46 of

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the Law on Judicial Officers.

If the judicial officer is found not guilty, the panel decides by judgment to close the case.[35]

The decision of the Disciplinary Council shall be adopted by a majority of the panel's votes and shall be communicated to the parties within 15 days.

That respective decision shall be signed by the President of the panel and by the secretary and shall be communicated to the parties.

The Board of Directors has the obligation to communicate, as soon as possible, the measures ordered by judgment of the Disciplinary Council, as the case may be, to the Council of the National Union of Judicial Enforcement Officers or to the Minister of Justice.

All expenses incurred in connection with the settlement of the case shall be borne by the Chamber of Judicial Officers if the action is dismissed or by the judicial officer if the action is admitted.

The parties may lodge an **appeal** against the judgment within 15 days from the communication, to the Superior Disciplinary Commission of the National Union of Judicial Enforcement Officers, composed of elected representatives of the chambers. Although the Superior Disciplinary Commission of UNEJ is composed of 15 members (one representative of each Chamber), it will judge the appeal within a panel of 5 members.

Also, on the appeal, the Superior Disciplinary Commission of UNEJ will deliver a **judgment** which will be final and can be challenged by means of an **appeal** at the Appellate Court having territorial jurisdiction over the area where the headquarters of the office of the respective judicial officer is situated.

We have already mentioned that, in case of disciplinary violations provided by law, the **Board of Directors** of the Chamber of Judicial Officers or the **Minister of Justice** are the **coordinators** of the disciplinary action against a judicial officer, which is exercised within 1 year from the date when they became aware of a violation, but no later than 3 years from the date of its commission.

For the initiation of a disciplinary action, by its coordinators established by law, certain **conditions** must be met.[36]

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[35] This decision will include the following elements:
- the case number;
- the names of the panel members and of the secretary;
- the name and, as the case may be, domicile or headquarters of the parties, as well as their claims;
- a brief description of the disciplinary violation committed;
- the administered evidence;
- the applied legal texts;
- the solution and date of pronouncement;
- an indication of the remedy at law;
- a reference whether the pronouncement was made in the presence or absence of the parties.

[36] These conditions are:
a) self-notification by the Minister of Justice;

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The Disciplinary Council of the Chamber of Judicial Officers has a particularly important role in carrying out disciplinary control and, implicitly, in the disciplinary liability of judicial officers.

This Council is elected by the General Assembly of the Chamber of Judicial Officers for a period of 3 years and consists of 3 members. On this occasion, the General Assembly of each Chamber will also elect a number of 3 alternates during the term in office of the members of the Disciplinary Council.

The quality of members of the Disciplinary Council of the Chamber cannot pertain to members of the Council of the National Union of Judicial Enforcement Officers, Presidents and Vice-Presidents of the Board of Directors of the Chambers of Judicial Officers.

The confirmation of the election of the members of the Disciplinary Council of the Chamber of Judicial Officers and of their alternates will be made by the Board of Directors of the respective Chamber. Upon completion of this formality, the Disciplinary Council shall appoint its President and Vice-President.

The activity of the Disciplinary Council is carried out independently and is not subordinated to the Board of Directors of the Chamber. The Disciplinary Council has the competence to judge any judicial officer within the respective Chamber for the violations provided in the Law on Judicial Officers.

Appearing as a true panel of judges, the way of working of the Disciplinary Council of the Chamber is materialized through court hearings, which are held at the headquarters of the Chamber of Judicial Officers. These court hearings take place whenever the Disciplinary Council of the Chamber is notified of a disciplinary action by its coordinators.

Since these court hearings are public, any judicial officer within the respective Chamber may attend.

The registration of the works of the Disciplinary Council will be kept, as a rule, by a secretary. In fact, this person is the secretary of the Chamber of Judicial Officers.

In the fulfillment of its job duties, the Disciplinary Council draws up **minutes** in case it postpones for settlement a case with which it was vested or passes **judgments** on the disciplinary actions it was notified about.

An **appeal** may be filed regarding the judgments of the Disciplinary Councils of the Chambers of the Judicial Officers by any dissatisfied party, within 15 days from the notification to the Superior Disciplinary Commission of the National Union of Judicial Enforcement Officers, composed of the representatives of the 15 Chambers.

For non-fulfillment or defective fulfillment of their duties as members of the Disciplinary Council, judicial officers may be removed only by the General Assembly of that Chamber.

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b) self-notification by the Board of Directors of the Chamber of Judicial Officers or, their notification by the Council of the National Union of Judicial Enforcement Officers through the President or his/her replacement.

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The Superior Disciplinary Commission within UNEJ appears as a superior court with judicial duties regarding the appeals formulated against the judgments of the Disciplinary Councils of the Chambers of the Judicial Officers.

The Congress of the National Union of Judicial Enforcement Officers elects and removes the members of the Superior Disciplinary Commission, each Chamber of Judicial Officers having the right to one representative.

Under these conditions, the Superior Disciplinary Commission consists of 15 judicial officers, of which **one** is **President** and **2** are **Vice-Presidents**.

In order to settle an appeal made by one of the parties against the judgment ordered by the Disciplinary Council of a Chamber, the President of the Superior Disciplinary Commission will constitute the panel of judges composed of 5 members of the Superior Commission and an alternate member. It is very useful to specify that the panel constituted at the level of the Superior Disciplinary Commission of UNEJ will not include the judicial officer who is a representative of the Chamber to which the judicial officer against whom the disciplinary action was initiated belongs.

In the fulfillment of its duties, the Superior Disciplinary Commission within UNEJ adopts **judgments** which are final and may be challenged by **appeal** at the Appellate Court.

In case the disciplinary action exercised over a judicial officer is well-founded, in relation to the gravity of the deeds committed by him/her, a series of sanctions may be imposed. [37]

A particularly important aspect is the one related to the bearing of the expenses incurred in connection with the settlement of a disciplinary action. All these expenses will be borne by the Chamber of Judicial Officers if the action is rejected or by the judicial officer if the action is admitted.

II.2.2 The administrative-professional control exercised by the Minister of Justice, through the specialized inspectors and by the professional authorities with self-control responsibilities

A particularly important form of control over the activity of judicial officers is the administrative-professional control. This type of control is limited to verifying the technical, political, moral value and the behavior of judicial officers. Therefore, we have allowed ourselves to call this type of control an administrative-professional one

[37] According to the provisions of art. 49 of the Law on Judicial Officers, the following sanctions may be imposed:
a) reprimand;
b) warning;
c) fine from 500 lei (100 euro) to 3,000 lei (600 euro), which is paid to the budget of the Chamber of Judicial Officers in whose territorial jurisdiction the office of the respective judicial officer is located;
d) suspension from the job for a period of 1 to 6 months;
e) exclusion from the profession.
Failure to pay the fine within 30 days from the date the judgment establishing the disciplinary sanction is final entails the de jure suspension from the job of the judicial officer until the payment of the amount. It is important to note that the final judgment is an enforceable title.

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because it can cover aspects related to the administrative organization of the judicial officer's office or the way of fulfilling his/her professional duties and it can be performed both by the authorities with self-control responsibilities established within the profession and by the specialized inspectors within the Ministry of Justice.

This type of control is stipulated in a series of legal and regulatory provisions incident to the organization and functioning of the judicial officer's profession.

First of all, the authorities who can exercise this type of administrative-professional control must be evoked, namely, the **Ministry of Justice, through specialized general inspectors** and **the National Union of Judicial Enforcement Officers, through its Board of Directors**, but also the **objectives** of this control.[38]

In a much more comprehensive way, certain provisions of the Regulation implementing the Law on Judicial Officers regulate both the authorities who can perform this type of control and the more precise objectives of this control.

In this sense, the professional control of the activity of judicial officers is exercised by the **Minister of Justice, through specialized general inspectors** and by the **National Union of Judicial Enforcement Officers, through its Board of Directors**.[39]

Also, **in the case of the control exercised by the Minister of Justice through specialized general inspectors**, the activities specific to the fulfillment of professional duties by the judicial officer shall be taken into account.[40]

In some situations which may be notified to him/her, the Minister of Justice may request, as the case may be, information on the activity of some judicial officers from the Council of the Union or from the Board of Directors of the Chamber of Judicial Officers.

Also, on the occasion of exercising this type of control and in case of finding disciplinary violations, the Minister of Justice, through specialized inspectors, will

[38] The provisions of art. 62 para. (1) of the Law on Judicial Officers no. 188/2000 regulate this aspect. Also, on the occasion of this type of control, the following will be taken into account:
a) the organization and functioning of the judicial officers' chambers and of the judicial officers' offices;
b) the quality of the acts and works performed by the judicial officers;
c) the behavior of the judicial officers in the workplace relationships, in relation to the public authorities and natural and legal persons.
Also, para. (2) of the mentioned legal text establishes the fact that only for carrying out the control provided in para. (1) letters b) and c), the UNEJ Council may delegate the Board of Directors of the Chamber of Judicial Officers in its jurisdiction.

[39] See provisions of art. 100 para. (2) of the Regulation implementing the Law on Judicial Officers.

[40] The provisions of art. 101 para. (2) of the Regulation implementing the Law on Judicial Officers set out a number of objectives that the specialized inspector must take into account during the inspection, such as:
- the compliance with the law in the professional activity of judicial officers;
- the proper keeping of records;
- the preservation of the archive;
- the quality of the acts and works performed by the judicial officers;
- the conduct of the judicial officer in fulfilling his/her duties, in relation to the public authorities, as well as to natural and legal persons.

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conduct the preliminary investigation and will be able to take disciplinary action against the respective judicial officer. In this sense, the Minister of Justice, through the specialized inspectors, will notify the Disciplinary Council of the respective Chamber.

As we have mentioned before, this type of control can also be exercised by professional authorities with self-control responsibilities. Within these authorities, we can include the UNEJ Council and the Boards of Directors of the Chambers.

In the case of the **control performed by the UNEJ Council**, there are a number of specific objectives, set out in the content of the Regulation implementing the Law on Judicial Officers, which this authority must take into account when carrying out a control activity.[41]

Moreover, there is also the possibility of the Council of the Union to **delegate** the Board of Directors of the Chamber of Judicial Officers in order to carry out the professional control of judicial officers within the offices located in its jurisdiction. The Board of Directors of the Chamber of Judicial Officers may also verify the notifications of the parties against the judicial officers within 20 days from the notification and may take corrective measures or, as the case may be, exercise disciplinary action, while notifying this action to the Council of the Union.

The administrative-professional control of the judicial officers' activity is exercised periodically, at least once every 2 years, and concerns the legality of the judicial officers' works, the preservation of the archive, the financial-accounting management and the conduct of the judicial officers in fulfilling their professional duties.

Also, judicial officers verified on the occasion of this form of control, have the right to raise written objections, which will be attached to the control act.

At the same time, the control acts performed by the specialized inspectors from the Ministry of Justice, by the Union Council or, as the case may be, by the Board of Directors of the Chamber of Judicial Officers will be communicated to the Specialized Directorate within the Ministry of Justice in order to attach these to the professional file of each judicial officer.

II.2.3 Jurisdictional control of the courts over the acts of judicial officers

[41] Art. 102 of the Regulation implementing the Law on Judicial Officers provides a number of specific objectives, such as:
- the organization and functioning of the Chambers and offices of judicial officers;
- carrying out the activity of judicial officers;
- the fulfillment of the duties by the Board of Directors of the Chamber of Judicial Officers;
- the way of functioning of the judicial officers' offices;
- the quality of the works;
- training of trainee judicial officers;
- the financial-accounting management of the Chambers and offices of the judicial officers;
- any other problems related to the enforcement activity.

We consider it particularly useful to recall that this type of control is exercised annually in each Chamber of judicial officers, and in the offices of judicial officers when decided by the Council of the Union.

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In addition to the types of control previously stated, the activity of judicial officers may also be subject to jurisdictional control exercised by the courts only over the acts drawn up by the judicial officers in the exercise of their professional duties.

The first principle set out in the content of the Regulation implementing the Law on Judicial Officers highlights the fact that the acts of the judicial officers are subject to the control of the courts.[42] This type of control can be exercised by the courts also **in case of refusal of the judicial officer to fulfill some duties provided by the law**.

Moreover, those concerned or harmed by the enforcement acts may file an appeal against the enforcement, under the conditions provided by the Civil Procedure Code. Thus, we could state that through the action of **appeal against enforcement** a jurisdictional control can be exercised over the acts performed by the judicial officer in the exercise of his/her duties.

Therefore, the jurisdictional control of the courts over the activity of the judicial officers can be exercised in two cases:

a) In case of refusal of the judicial officer to fulfill some duties provided by the law. The refusal of the judicial officer to fulfill an act or to carry out a forced execution shall be motivated, if the parties insist on fulfilling the act, within 5 days from the date of the refusal.[43] In case of an unjustified refusal to draw up an act, the concerned party may file a **complaint** within 5 days from the date on which he/she became aware of this refusal at the court in whose territorial jurisdiction the judicial officer's office has its headquarters.

The judgment of the complaint is made by the court in whose territorial jurisdiction the office of the judicial officer is located. Therefore, in this case, the jurisdiction belongs to the court in whose territorial jurisdiction the judicial officer's office has its headquarters, which not in all the cases can also be an enforcement court (see the example of the indirect seizure of an immovable asset located in the territorial jurisdiction of another court).

The judgment of the complaint is made by summoning the parties, the court being obligated to summon the judicial officer as well.[44]

The judicial officer is obligated to comply with the final judgment. His/her failure to comply, in bad faith, with the obligation established in the final court decision constitutes a misdemeanor and is punishable by imprisonment from 1 to 3 years, and if the act was committed out of guilt, with imprisonment from 3 months to 1 year or fine.

Also, the refusal of the judicial officer to fulfill some duties provided by the law cannot only be the object of this special procedure, but also the object of an appeal against enforcement.

[42] See the provisions of art. 100 of the Regulation implementing Law no. 188/2000 on Judicial Officers.
[43] See the provisions of art. 56 para. (1) and (2) of Law no. 188/20.
[44] Regarding the cases which make possible the summoning of the judicial officer to court, see I. Leş, The procedural legitimation of the judicial officer [Legitimarea procesuală a executorului judecătoresc], in Enforcement Magazine no. 1/2007, pp. 57-67.

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b) By means of the appeal against enforcement according to the provisions of NCPC. An appeal against enforcement, as the term suggests, is not an action intended to amend, reform or retract a judgment or another enforceable title. Its purpose is limited only to the removal of irregularities committed during the seizure or to render explicit, where appropriate, the operative part of a judgment to be enforced.[45] Therefore, the object of the appeal against enforcement may primarily concern the entire enforcement procedure, the written statements of the judicial officer which are not, according to the law, final, the refusal of the judicial officer to perform an enforcement or an act of enforcement under the law or, as the case may be, the division of the assets co-owned in percentage shares or in joint ownership. Also, the object of an appeal against enforcement may be clarifications regarding the meaning, scope or application of the enforceable title. Consequently, in the following we will distinguish between the **actual appeals and the appeals against titles**.

The relevant provisions of the appeal against enforcement are found in the provisions of NCPC which determine, first of all, the parties of this action, i.e., any person concerned or injured by the forced execution.[46] Also, the mentioned normative act establishes the main procedural rules that must be observed during the settlement of the appeals against enforcement, starting from the settlement jurisdiction and ending with the effects of the solution pronounced by the judge.

Regarding jurisdiction, we can distinguish between the actual appeals and the appeals against titles.[47] In the case of actual appeals, the jurisdiction to settle appeals belongs to the enforcement court.

A different jurisdiction is conferred by law in the case of appeals against titles. Thus, the appeal regarding the clarification of the meaning, scope or application of the enforceable title is filed in the court which pronounced the judgment which is being enforced. However, if such an appeal concerns an enforceable title which does not emanate from a jurisdictional body, the jurisdiction belongs to the enforcement court.

In addition, the court may have jurisdiction from a territorial point of view to settle an appeal against enforcement also in the case of certain types of enforcement.

Firstly, in the case of garnishment, if the domicile or headquarters of the debtor are located in the jurisdiction of an appellate court other than the one in which the court of enforcement is located, the appeal may also be filed in the court in whose jurisdiction the debtor's domicile or registered office is located. In the case of seizure of immovable assets, seizure of the fruits and general income of immovable assets, as well as in case of forced transfer of immovable assets, if the immovable asset is in the jurisdiction of an appellate court other than the one where the enforcement court is,

[45] E. Hurubă, Appeal against enforcement in civil matters [Contestaţia la executare în materie civilă], Universul Juridic Publishing House, Bucharest, 2012, p. 138.
[46] See art. 712-720 of NCPC.
[47] See B. Ionescu, Thematic, theoretical and judicial practice study regarding the procedural institution of the appeal against enforcement (II) [Studiu tematic, teoretic şi de practică judiciară referitor la instituţia procesual-procedurală a contestaţiei la executare (II)], in Law Magazine/Revista Dreptul no. 11/2004, pp. 273-278.

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the appeal can also be filed at the court where the immovable asset is located.

Also, NCPC establishes a common law term in the matter of appeal against enforcement, with a duration of 15 days.[48] The term of 15 days is incidental to all appeals against enforcement, regardless of the nature of the enforceable title or the quality of the party exercising the appeal against enforcement, including appeals against written statements adopted by the judicial officer and which are not final, according to the law.

However, the method of calculating the term for exercising the appeal against enforcement is different. Thus, the term of 15 days begins from the date when:

- the appellant has become aware of the enforcement act he/she is challenging;
- the concerned party has received the communication or, as the case may be, the notification regarding the establishment of the garnishment. If the garnishment is established on periodical income, the term of appeal for the debtor begins at the latest on the date of the first withholding of these incomes by the third-party garnishee;
- the debtor challenging the execution itself has received the writ of execution or the summons, or from the date when he/she has become aware of the first enforcement act, in cases where he/she has not received the writ of execution or the summons, or if the enforcement is performed without summons.

A special case is the one regarding the introduction of the appeal against enforcement by a third party who claims a property right or another real right over the seized asset. In this case, the third party may exercise the procedural route of the appeal "throughout the entire enforcement, but not later than 15 days from the sale or from the date of the forced transfer of the asset". After the expiry of the aforementioned deadline, any appeal against enforcement is too late for the third party.

Failure to file the appeal within the time limit does not prevent the third party from exercising his/her right by means of a separate request, in accordance with the law, subject to the rights definitively acquired by the third-party adjudicators within the forced sale of the seized assets. Hence, the categorical conclusion, also confirmed by the jurisprudence, that the civil action can be exercised even if the term of appeal has been lost.[49]

The appeal shall be submitted to the competent court together with all the written acts the appellant intends to use. It is particularly useful to specify that the court is entitled to request the enforcement body to deliver, within the set deadline, copies certified by it from the contested enforcement file documents. The measure is, in fact, indispensable due to the fact that the main object of the appeal is represented by the documents drawn up by the judicial officer during the seizure. It is important to emphasize that the law imposes only the obligation of communication by the judicial

[48] Ibid.
[49] For example, see: Supreme Court, col. civ., Dec. no. 1149 of September 25, 1962, in Repertoire I, no. 777, pp. 896; C.S.J., sect. civ., Dec. no. 2608 of June 28, 2002, in B.J. 1990-2003, pp. 1021.

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officer of the contested enforcement acts. The other procedural documents that do not constitute the object of the appeal against enforcement do not need to be communicated by the judicial officer.

A particularly significant provision is the one concerning the right of the court to call for, at the request of the parties or when it deems it necessary, written relations and explanations from the judicial officer. These "written relations and explanations" can be particularly useful for the objective settlement of the appeal against enforcement. In most cases, the judicial officer is best placed to substantiate the reasons why he/she adopted a particular measure within the enforcement activity.

Also, at the request of the concerned party and until the settlement of the appeal against enforcement, but only for true and just cause, the competent court may order, by written statement, the suspension of the forced execution with payment of an appropriate bail.

Regarding the legal framework of the judgments pronounced on the appeals against enforcement, and in this case, the solutions adopted by the legislator differ depending on the nature of the appeal against enforcement, respectively if we are in the presence of a proper appeal or an appeal against titles.[50] In regard to the actual appeals against enforcement, the first paragraph of the cited legal provision established the principle according to which "*the judgment pronounced on the appeal can only be challenged by appeal*". Such a procedural solution is one of the multiple situations in which the legislator established the possibility to contest the decision only by appeal for reasons of speeding up the trials. Judgments pronounced within appeals against titles may also be contested only by appeal if they do not constitute judgments of a jurisdiction court. Therefore, in the NCPC system, the remedy at law of second appeal cannot be exercised against a judgment pronounced regarding an appeal against enforcement.

However, the current procedural rules also add some exceptions to the mentioned principle. The first exception concerns the judgments pronounced regarding the division of the assets co-owned in percentage shares or in joint ownership within the judgment of the appeal against enforcement. The second exception concerns the judgments pronounced on the appeal filed by a third party claiming a property right or another real right over the seized asset. These exceptions are fully justified and this is precisely due to the fact that in such situations there is a real trial on the merits, with all the procedural guarantees, so it is normal that the pronounced judgment can be challenged according to the rules of common law, i.e., both with appeal and second appeal.

A final category of exceptions concerns the appeals against titles. In this case the pronounced judgment is subject to the same remedies at law as the enforceable judgment.

As we have mentioned, NCPC also determines the effects of the judgments given on the appeals by the enforcement court. These effects are distinct depending on the

[50] See art. 718 of NCPC.

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solution of admitting or rejecting the appeal. In case of admitting the appeal against enforcement, the court, taking into account its object, as the case may be, shall correct or annul the contested enforcement act, order the annulment or termination of the enforcement itself, cancel or clarify the enforceable title. The presented text is very eloquent in determining the effects of admitting the appeal, in its various forms of manifestation, the law taking into account both the actual appeals and the appeals against titles.

In all the situations of admission of the appeal against enforcement, the judicial officer is obligated to comply with the provisions given by the court which settled the appeal against enforcement.

The object of the appeal against enforcement may also be the division of co-owned assets. In this case, the enforcement court will also decide on their division, according to the law.

In case of rejection of the appeal against enforcement, the seizure will be continued. In this case, the appellant may be obligated, upon request, to compensate for the damage caused by the delay of the forced execution, and when the appeal was exercised in bad faith, he/she will also be obligated to pay a judicial fine from 1,000 lei (200 euro) to 7,000 lei (1,400 euro).

An innovative element brought by the current procedural provisions is the possibility for the decision to admit the rejection of the appeal, which remains final, to be communicated ex officio and immediately, to the judicial officer. The solution is a normal one, because only to the extent of the communication does the judicial officer have the possibility to effectively comply with the court's provisions, although, in practice, the concerned party immediately presents a certificate from the minutes of the solution issued by the court.

II.3 Access to the premises

No information available.

II.4 Obstructing the judicial officer from carrying out enforcement

The enforcement procedure must be carried out in an optimal and predictable manner, in the interest of exercising the right granted to the creditor in the enforceable title. For this, the state is directly responsible for the way in which the enforcement procedure is carried out.

The New Criminal Code regulates a relevant offense.[51] From this perspective, the offense against a judicial officer is assimilated to the act which reveals the threat perpetrated directly or by means of direct communication, hitting or other acts of violence, bodily harm, beatings or injuries causing death or murder perpetrated against a public servant holding an office which involves the exercise of state authority, who is in office or in relation to the exercise of such office. This act will be sanctioned with the penalty provided by law for that offense, and the special limits of the penalty shall be increased by one third.

[51] See art. 257 of the New Criminal Code.

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The same increase of the penalty may be applied in case of the perpetration of an offense against a public servant holding an office which involves the exercise of state authority or against his/her property, for intimidation or revenge, in relation to the exercise of the office. The same punishment shall be applied to acts of intimidation or revenge committed against a family member of the public servant.

Moreover, the New Civil Procedure Code also regulates certain situations regarding some measures in case of opposition to enforcement.[52] If the judicial officer is challenged in the execution of an enforcement act, at his/her request, the police, military police force and other law enforcement agents are obligated to ensure the effective execution of the enforcement activity, including by his/her or any other person's removal from the place of enforcement. If the opposition to the execution meets the constitutive elements of a deed provided by the criminal law, the judicial officer concludes minutes, which he/she will immediately send to the prosecutor's office attached to the enforcement court. This notification does not prevent the continuation of the forced execution.

II.5 Time of enforcement

The civil procedural legislation in Romania regulates the time in which the forced execution takes place.[53] Thus, no enforcement act will be possible before 6.00 and after 20.00. Enforcement may not take place at hours other than those mentioned or on non-working days, established by law, unless otherwise stipulated in the enforceable judgment itself or in urgent cases in which enforcement may be approved by the enforcement court. Exceptionally, the execution which has started may continue on that day, but not later than 22.00.

Also, no eviction from residential buildings may be made from December 1 to March 1 of the following year, unless the creditor proves that, within the meaning of the provisions of the housing law, he/she and his/her family do not have a suitable home or the fact that the debtor and his/her family have another suitable home in which they could move immediately.[54] These provisions do not apply to the eviction of persons who are abusively occupying, de facto, without any title, a residence, or to those who have been evicted because they endanger cohabitation relations or seriously disturb public order.

II.6 Mediation

In 2002, the European Commission adopted a Green paper on alternative dispute resolution in civil and commercial law. According to this document, alternative ways of solving conflicts, such as mediation, allow the parties to "re-establish dialogue in order to find a solution to the conflict between them, instead of closing themselves in a logic of confrontation" which normally results in a winner and a loser.

The steps indicated also materialized in Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil

[52] See art. 682 of NCPC.
[53] See art. 684 of NCPC.
[54] See art. 896 para. (1) of NCPC.

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and commercial matters. The provisions of the Directive are only applicable to cross-border litigious relationships, but "there is nothing to prevent Member States from applying them equally to internal mediation procedures" (recital 8 of the Preamble of the Directive).

The European Commission plans to adopt a new document intended to promote mediation in cross-border litigation in the field of competition, as well. The possibility of imposing the compulsoriness of mediation in litigations whose value does not exceed a certain amount is examined.

The regulations contained in the NCPC comply with the provisions of the documents we referred to in the preceding paragraphs. Thereafter, we intend to make a brief analysis of the two situations regulated by: the obligation of the judge to recommend mediation and the attempt to reconcile the parties.[55]

With regard to enforcement proceedings, NCPC does not allocate concrete provisions regarding the role of the judicial officer in the matter of mediation. The only prescriptions that would fall within the scope of this activity concern the attempt at conciliation, when objections were formulated regarding the distribution of the amounts resulted from the forced execution and registered in the Distribution Project.[56] Within this procedure, the judicial officer has the possibility to make the parties reach an agreement on the distribution of the amounts obtained in the enforcement and their distribution according to this agreement.

The mediation procedure is regulated by the internal legislation in Romania, through the provisions of Law 192/2006. This normative act contains a series of provisions regarding the establishment of the place of mediation in relation to the Romanian judicial system, the bases of organizing and exercising the profession of mediator, etc.

According to the current regulation, the judicial officers in Romania cannot perform, in concrete terms, the mediation activity as defined by Law no. 192/2006.[57] In fact, we cannot exclude the possibility for the judicial officer to have the quality of mediator at the same time, if he/she meets the conditions imposed by the provisions of Law no. 192/2006, all the more so as "the exercise of the function of judicial officer is incompatible with: a) the remunerated activity within other professions, except for university teaching, artistic, literary and journalistic activity".

If he/she does not have the quality of mediator, what must be noted is the competence of the judicial officer mentioned in Law no. 188/2000, which states: "amicable recovery of any claim".[58] From this, we can remember that, in practice, the judicial officer can carry out, specifically, activities specific to mediation, precisely to try this amicable recovery of any claim, therefore, to lead the parties of a legal dispute to voluntary enforcement, whether or not there is an enforceable title. As such, the mediation procedure can be exercised by the Romanian judicial officer, but only in

[55] See art. 21 of NCPC.
[56] See art. 876 of NCPC.
[57] Law no. 192/2006 on mediation and organization of the mediator profession was published in the Official Gazette. no. 441 of May 22, 2006.
[58] See in art. 7 letter d) of Law no. 188/2000 on Judicial Officers.

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accordance with the specific procedural aspects indicated above.

PART III: ENFORCEMENT PROCEDURES

III.1 Initiation and end of the enforcement procedure

The **initiation** of the enforcement procedure starts with the registration of the request for enforcement in the records of the judicial officer. According to the provisions of art. 665 of NCPC, as soon as he/she receives a request for enforcement, the judicial officer will order, by a **statement**, the registration and opening of the enforcement file or, depending on the circumstances, will refuse to open the enforcement procedure, with reasoning. The statement of the judicial officer will be communicated immediately to the creditor. If the judicial officer refuses to open the enforcement procedure, the creditor may file a **complaint**, **within 15 days** from the date of conclusion of that **statement**.

After this procedural phase, according to art. 666 of NCPC, the enforcement court will rule on **the approval of the forced execution.**[59] Thus, within maximum 3 days from the registration of the request, the judicial officer will request the approval of the forced execution by the enforcement court, to which he/she will submit the following documents certified by him/her for compliance with the original: the creditor's request; the enforceable title; the statement of the registration of the request and of opening of the enforcement file; proof of payment of the judicial stamp duty.

The enforcement court will respond to the request for approval of the forced execution, by a **statement** given in the Council Chamber, without summoning the parties, **within 7 days from its registration**. The pronouncement can be postponed **for maximum 48 hours**, and **the reasoning of the statement is given within 7 days from the pronouncement**. The statement is communicated ex officio, immediately, to the judicial officer, as well as to the creditor.

The **statement** by which the court admits the request for approval of the forced execution is not subject to any means of appeal, however, it can be censored by way of appeal against enforcement. The statement rejecting the request for approval of the forced execution may be challenged only by appeal exclusively by the creditor, within 15 days from the communication. The decision settling the appeal shall also be communicated, ex officio, immediately, to the judicial officer.

[59] See I. Leş, On a decision of unconstitutionality [Pe marginea unei decizii de neconstituţionalitate], in the Romanian Enforcement Magazine no. 1/2009, pp. 79 – 93; C. L. Popescu, Note on the Decision of the Constitutional Court no. 458 of March 31, 2009 [Notă la Decizia Curţii Constituţionale nr. 458 din 31 martie 2009], in The Judicial Courier no. 5/2009, pp. 265 – 267; V. M. Ciobanu, The Constitutional Court - guarantor of the supremacy of the Constitution, legislator or parliamentary expert [Curtea Constituţională – garant al supremaţiei Constituţiei, putere legiuitoare sau expert parlamentar], in The Romanian Journal of Private Law no. 3/2009, pp. 72 – 95; E. Hurubă, Considerations regarding the need for the court to approve the initiation of the forced execution and some critical notes on the decision of the Constitutional Court no. 458 of March 31, 2009 [Consideraţii privitoare la necesitatea încuviinţării de către instanţa de judecată a începerii executării silite şi unele note critice la decizia Curţii Constituţionale nr. 458 din 31 martie 2009], in the Romanian Enforcement Magazine no. 1/2009, pp. 40 - 54.

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The **termination** of the forced execution may take place in one of the situations stipulated in art. 703 of NCPC. Thus, paragraph (1) of this article states that enforcement shall cease if:

1. The obligation provided in the enforceable title has been fully fulfilled, the enforcement expenses, as well as other amounts due according to law, have been paid;
2. It can no longer be carried out or continued due to the lack of seizable assets or the impossibility of capitalizing on such assets;
3. The creditor has given up on the enforcement;
4. The enforceable title has been abolished;
5. The enforcement has been canceled.

In all cases, the judicial officer will draw up a statement of de facto and de jure grounds, mentioning the cause for the termination of the enforcement, and it will be communicated immediately to the creditor and the debtor. In the cases provided in points 2, 3 and 5, the judicial officer shall personally send the enforceable title to the creditor or his/her representative.

III.2 Enforcement against movable assets to settle pecuniary claims

The general principle regarding the seizure of all the assets of a debtor is stated in the content of art. 2324 of NCC, which stipulates that the person who is personally obligated is liable with all of his/her movable and immovable assets, present and future, and these serve as a common guarantee for his/her creditors.

However, NCPC also regulates a number of special cases whereby certain assets or income are totally exempt from enforcement or can be seized conditionally. Therefore, we can discuss:

A) Alienable assets which cannot be forcibly seized, within the meaning of art. 727 of NCPC:

- personal or household assets indispensable to the subsistence of the debtor and his/her family and objects of worship, if they are not several of the same kind;
- objects indispensable to people with disabilities and those intended for the care of the sick;
- the food necessary for the debtor and his/her family for 3 months, and if the debtor deals exclusively with agriculture, the food necessary until the new harvest, the animals intended for subsistence' means and the fodder necessary for these animals until the new harvest;
- the fuel needed by the debtor and his/her family calculated for 3 winter months;
- personal or family letters, photos and pictures and other such things;
- the assets declared non seizable in the cases and conditions provided by

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law.

B) Conditionally seizable alienable assets, according to art.728 of NCPC:

– Movable assets which are the object of a division of patrimony assigned to the practice of an authorized profession can be seized only by the creditors whose claims arose in connection with the practice of that profession. If assets are not assigned to an individual professional patrimony, but serve to the practice of the occupation or to the profession of the natural person debtor, they can only be seized if there are no other seizable assets and only for maintenance obligations or other privileged claims on movables;

– If the debtor works in agriculture, the agricultural inventory, including animals needed for work, fodder for these animals and seeds for the cultivation of the land shall not be seized to the extent necessary for the continuation of agricultural works, unless for these assets there is a collateral right or a lien to secure the claim.

C) Seizure of the salary and other periodic income, according to art. 729 of NCPC:

– Salaries and other periodic income, the pensions granted within the social insurances, as well as other amounts which are paid periodically to the debtor and are destined to ensure his/her means of subsistence can be seized: a) up to half of the monthly net income, for the amounts due as maintenance obligation or child allowance; b) up to one third of the monthly net income, for any other debts;

– If there are several seizures of the same amount, the seizure may not exceed half of the monthly net income of the debtor, regardless of the nature of the claims, unless the law provides otherwise;

– Income from work or any other amounts which are periodically paid to the debtor and are intended to ensure his/her livelihood, if they are less than the sum of the net minimum wage, only the part which exceeds half of this sum can be seized;

– The benefits for temporary incapacity of work, compensation granted to employees in the event of employment termination under any legal provision, as well as unemployment benefits, according to law, can only be seized for amounts due as maintenance obligation and compensation for repair of damage caused by death or personal injury, unless otherwise stipulated by law. The seizure of these rights may be done within the limit of half of their sum;

– State allowances and child benefits, sick childcare allowances, maternity allowances, death benefits, state scholarships, per diems, as well as any other such special allowances, established by law, cannot be seized for any type of debt.

III.3 Attachment on the bank account of the debtor

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In the Romanian legislation, garnishment is established according to the provisions of the New Civil Procedure Code (art. 783). According to these regulations, garnishment is established without summons, based on the writ of execution, through the address which will specify the enforceable title under which the garnishment was established, which will be communicated to the third party (in our case, to the bank), together with the writ of execution or a certificate regarding the solution pronounced in the file.

The debtor will be notified of the measure taken, a copy of the address for setting up the garnishment will be communicated to him/her, to which certified copies of the writ of execution or of the certificate regarding the solution pronounced in the file and the enforceable title will be attached, if the latter two have not been previously communicated to him/her. In the address setting up the garnishment the third party, who becomes a third-party garnishee, will be notified of the interdiction to pay to the debtor the amounts of money or movable assets that he/she owes or will owe, establishing garnishment over them to the extent necessary to fulfill the obligation to be enforced.

The address setting up the garnishment will include the name and domicile of the natural person debtor or, for legal entities, their name and registered office, as well as their personal numerical code or, as the case may be, the unique registration code or tax identification number, if known. If the garnishment is requested for all the accounts of a natural or legal person, including for the accounts of the subunits without legal personality of the latter, the identification elements for each account, respectively for each subunit without legal personality of the legal person debtor will be indicated, if known. If the address setting up the garnishment is transmitted to an operational unit of a credit institution, the garnishment will be established only on the accounts that the pursued debtor has opened at that unit. If the debtor does not have an account opened at the unit of the notified credit institution, the latter will inform the judicial officer about the accounts opened by the debtor at other operational units.

The enforceable title will be accompanied by an address which will include the name and domicile of the natural person debtor or, for legal entities, the name and registered office, as well as the personal numerical code or, as the case may be, the unique registration code or tax identification number, if known, the number and date of the address on the basis of which the garnishment insurance was established, the number of the enforcement file and the identification data of the account in which the amount garnished as insurance was recorded. After the garnishment is established, any other creditor of the garnishment debtor will be able to garnish the same claim until the release or distribution of the amounts resulting from the garnishment.

With regard to the effects of the establishment of the garnishment, it must be noted that from the moment of the communication of the address setting up the garnishment to the third-party garnishee, all the garnished sums and assets are frozen (art. 784 of NCPC). From the freeze and until the full payment of the obligations provided in the enforceable title, including during the suspension of the forced execution by garnishment, the third-party garnishee will not make any other payment

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or operation that could diminish the frozen assets, unless otherwise stipulated by law.

When amounts with successive maturities are garnished, the freeze extends not only to the amounts due, but also to those due in the future. The freeze also extends to the civil fruits of the garnished debt, as well as to any other accessories born even after the establishment of the garnishment. Due to the effect of the freeze, the payment or assignment of the garnished claim will not be opposable to the garnishing creditor. Also, the provision acts of any kind made after the establishment of the garnishment by the garnishment debtor on the garnished assets cannot be opposed to the garnishment creditor. The garnishment interrupts the statute of limitation not only regarding the garnished claim, but also regarding the claim for the coverage of which it was established. The freeze of the sums of money or of the garnished movable assets will not stop unless the debtor registers, with special assignment, all the sums for the coverage of which the garnishment was established, at the disposal of the judicial officer.

An important aspect in the matter of garnishment is its publicity (art. 785 of NCPC). If the garnished claim is secured by a mortgage or other tangible security, the garnishment creditor will be entitled to request, on the basis of a copy certified by the judicial officer from the address establishing the garnishment, that the garnishment be recorded in the land registry or in other advertising registers, as appropriate. If the mortgage guarantee is shown in the garnishment request, the judicial officer will request ex officio the registration in the land registry or in other publicity registers, as the case may be. The erasure of this registration can only be ordered by summoning the creditor at whose request it was made.

III.4 Enforcement against savings deposits and current accounts

Within this form of enforcement, after completing the preliminary and mandatory stage of registration of the request for enforcement and notification of the enforcement court in order to approve the enforcement (art. 665 in relation to art. 666 of NCPC), the judicial officer will notify the third-party garnishee (the credit unit where the debtor has opened bank accounts – either savings or transaction), through an address setting up the garnishment (art. 783 of NCPC), declaring garnished all present and future amounts from the debtor's accounts, up to the correlation with the main debit, the accessories and the forced execution expenses.

In all cases, only the judicial officer whose professional headquarters is in the jurisdiction of the Appellate Court assigned to the locality where the debtor has his/her domicile or headquarters (art. 782 of NCPC) is competent to perform this form of forced execution from a territorial point of view.

The limits within which the garnishment will operate are also determined by the provisions of the New Civil Procedure Code (art. 781 in relation to art. 729 of NCPC).

The savings accounts whose holder is the debtor are also susceptible to garnishment, but in this particular case the garnishment will operate only after the maturity of the deposit or from the date of fulfilling the condition - when appropriate.

In the case of the debtor's transaction accounts, the seizure by garnishment will not

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present difficulties or particularities, the third-party garnishee being obligated to register the amounts of money available to the judicial officer, within the term set by the previously mentioned article.

In both cases, in the event that the third-party garnishee does not fulfill its obligations (respecting the particularities imposed by the seizure of each type of bank account), in the interest of expedience, the judicial officer will notify the enforcement court in order to validate the garnishment against the defaulting third-party garnishee.

III.5 Enforcement on immovable property

This is one of the more complex forms of forced execution, generally determined by the property price estimate for this category of assets.

After completing the preliminary and mandatory stage of registration of the request for enforcement and notification of the enforcement court in order to approve the enforcement (art. 665 in relation to art. 666 of NCPC), the judicial officer will summon the pursued debtor, within 15 days from the receipt of this procedural act, to pay in full the main debt, accessories and enforcement costs, otherwise the capitalization under the law of the immovable asset in his/her property will proceed (art. 820 of NCPC).

The limits of the seizure of immovable assets in the property of the debtor are stipulated in the provisions of art. 813 of NCPC, and articles 814, 816, 817 and 818 of the same normative act stipulate particularities regarding the seizure of immovable assets registered in the land registry, of immovable assets of minors and prohibited, of mortgaged immovable assets, as well as immovable assets co-owned in percentage shares.

Simultaneously with the communication of the immovable asset summons to the debtor, the judicial officer will request from the competent immovable assets register and real estate publicity office to register the immovable asset summons in the land registry, for the purpose of opposability and publicity of the seizure (art. 822 of NCPC).

Considering the effects of the immovable asset seizure on third parties (art. 831 of NCPC), the judicial officer will entrust the administration of the immovable asset to a receiver-manager, appointed by written statement with the summoning of the parties.

After communicating the writ of execution to the debtor - by way of immovable asset summons - and registering the seizure in the land registry, the judicial officer will draw up the situation minutes stipulated in art. 829 of NCPC, in order to identify the pursued immovable asset and its estimation.

If the debtor has not paid in full the amounts for which he/she is pursued until this procedural moment, the judicial officer will proceed to establish, by written statement (art. 837 of NCPC), the property price estimate of the pursued immovable asset, usually based on a specialized expertise report, in all cases under the conditions of art. 836 of NCPC.

Subsequently, the term for the sale of the immovable asset will be set by written

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statement (art. 838 of NCPC). This term will be made public by communicating the sales publications.

At the deadline set for the sale of the immovable asset, the auction procedure will be carried out only with strict observance of the legal provisions, the successful bidder of the immovable asset being declared the person who, after 3 successive calls, offers the highest price or, as the case may be, the starting price established for the respective term.

This successful bidder will be issued the title deed only after recording the price difference between the participation guarantee submitted (art. 844 of NCPC) and the amount for which the immovable asset was awarded (art. 850 of NCPC).

In the event that the successful bidder does not submit the price within 30 days from the date of sale, it will be resumed at his/her expense, patrimonial liability for any damages caused by the resumption of the sale procedure being involved (art. 851 of NCPC).

III.6 Enforcement against wages and other permanent pecuniary income

This form of forced execution is realized by garnishment, the entity to which the debtor obtains this type of income being notified by the judicial officer through an address setting up the garnishment, under the conditions of the New Civil Procedure Code (art. 783).

As regards the obligations of the third-party garnishee, the debtor's employer must proceed to the registration of the amounts due by the debtor, under the conditions of art. 787 of NCPC, in all cases with the observance of the limits of seizing the income stipulated by the law (art. 729 of NCPC).

The sums of money will be recorded monthly at the judicial officer's will, or, as the case may be, at maturity, and in case the debtor changes his/her job or retires, the third-party garnishee will proceed with the notification of the new job or of the new institution from where the debtor collects sums of money, in order to continue the enforcement procedure (art. 786 of NCPC).

III.7 Attachment under the debtor's debtor

The premise situation concerns the third party that either owns movable assets seizable in the debtor's property, and the obligation to return them is due, or the third party that owes to the debtor sums of money, securities or other intangible movable assets.

In the first premise situation, the judicial officer will proceed to seize the assets in question, according to the provisions of art. 733 of the New Civil Procedure Code, which will then be capitalized by any of the modalities stipulated in the New Civil Procedure Code.[60]

In the second hypothesis we will find ourselves under the incidence of the legal

[60] Articles 754, 755 or 756 of NCPC regulate the amicable sale, direct sale, or in case these fail or cannot be realized, the forced sale.

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provisions which regulate seizure by garnishment (art. 781, art. 783 and the following ones of NCPC), the judicial officer notifying the third-party garnishee by the address setting up the garnishment to register the movable assets due to the debtor at the former's will, otherwise the garnishment will be validated (art. 790 of NCPC).

III.8 Enforcement against shares

The particularities of this form of forced execution are related to the legal framework of special circulation of this category of assets.

In essence, this is a case of a movable asset seizure, carried out in the first phase by identifying and freezing the stakes - by garnishment or sequestration, followed by their evaluation (art. 758 of the New Civil Procedure Code) and capitalization (art. 757 of NCPC).

Characteristic of this procedure, in case it will be performed by the judicial officer, is the elaboration of the tender book according to the requirements (art. 757 of NCPC). This must be communicated, under the sanction of nullity of the sale, to the parties in the enforcement file, to the company issuing the titles, as well as to all other associates, in order to exercise their rights recognized by law.

Subsequently, in addition to the common movable asset seizure procedure, the sale publication will have to be communicated to the issuing company and the other associates.

The rest of the procedure is carried out according to the common provisions regarding movable assets seizure, and the successful bidder may obtain their transfer in his/her name, based on the adjudication certificate issued by the judicial officer, otherwise he/she may request the assistance of the enforcement court to make this transfer (art. 774 alin. (2) of NCPC).

III.9 Other attachment procedures

On this subject we can discuss, for example, about the use of garnishment as a precautionary measure (art. 970 and 971 of NCPC).

In essence, this measure will be established by the judicial officer based on a judgment in this regard, on the amounts of money, securities or other seizable intangible movable assets due to the debtor by a third person or which will be owed in the future based on existing legal relationships.

It should be noted that the assets thus frozen will not be capitalized until after the creditor who requested the establishment of the measure obtains an enforceable title (art. 958 of NCPC).

III.10 Handing over movable assets

This form of forced execution requires first of all summoning the obligated party to transfer to the creditor the movable asset, determined by quantity and quality, within 24 hours from the receipt of this first act of enforcement, the writ of execution and the enforceable title (art. 893 with reference to art. 667 and 668 of NCPC).

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If the debtor does not comply willingly, the judicial officer will act to protect the creditor's rights, picking up the seized asset from the person who has it and making it available to the creditor (art. 894 of NCPC).

In the situation where the movable asset has become impossible to transfer due to destruction, alteration or concealment, the judicial officer will register these aspects in the minutes of enforcement, ordering the termination of the procedure by a separate written statement, and the creditor may request compensation based on the debtor's liability for non-enforcement (art. 892 of NCPC).

III.11 Enforcement in reinstatement of employee to work

This case concerns, par excellence, a debtor's obligation to carry out, which can be fulfilled, in case of non-compliance, by way of forced execution.

Thus, in the first phase, the judicial officer will summon the debtor to fulfill this obligation, which by nature presupposes a personal act of the debtor, within 10 days from the receipt of the writ of execution (art. 904 of NCPC).

Considering the fact that the obligation can only be fulfilled by a personal act of the obligated party, if the latter is passive, the creditor may request the coercion of the debtor to execute, by penalties imposed by the enforcement court, as well as obligating the debtor to pay compensation (art. 906 of NCPC).

III.12 Eviction

Forced transfer of immovable assets: In order to carry out this form of forced execution, the judicial officer will summon the obligated party to evacuate or to transfer the respective immovable asset to the creditor, within 8 days from the communication of the writ of execution (art. 897 related to art. 667 and 668 of NCPC).

It is noted that evacuation from immovable assets used as housing cannot be carried out from December 1 until March 1 of the following year (art. 896 of NCPC).

If the debtor does not comply, this enforcement procedure is carried out with the help of law enforcement agents, who will support the judicial officer, helping to remove the persons who occupy the immovable asset without right from it, thus protecting the creditor's rights.

If movable assets, which are not subject to the procedure, are identified in the immovable asset and the debtor does not pick them up within the maximum set period of one month (art. 899 para. (3) of NCPC), they can be capitalized for the recovery of the forced execution expenses, according to the procedure stipulated for the seizure of movable assets.

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

Within this form of forced execution, the debtor will be summoned to do what he/she was obligated to do by the enforceable title, or to remove or lift what he/she did disregarding the provisions of the title, within 10 days after receiving the writ of execution (art. 904 and 905 of NCPC).

If the debtor's conduct is passive, the creditor may request the authorization from the

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enforcement court either to do himself/herself, at the expense of the debtor, what the latter refused to do, or to abolish himself/herself (the creditor) or through other persons, also at the expense of the debtor, the works done by the latter against the obligation to cease doing/refrain from carrying out a particular action.

If the service to which the debtor was obligated involves a personal act, which cannot be fulfilled by another person, the creditor may request the debtor's coercion until execution, in the form of penalties and compensation, regulated by art. 906 of the New Civil Procedure Code.

III.14 Sequestration of goods

The fundamental purpose of this approach is the freezing and conservation in good conditions of the debtor's seizable movable assets, for the purpose of subsequent capitalization.

The absolutely non-seizable assets are those listed exhaustively in the New Civil Procedure Code (art. 727), which cannot be frozen for any type of claim.

In all cases, the sequestration of the assets must be preceded by a movable asset summons (art. 667 and 668 of NCPC). The relevant provisions are found in art. 731 - 752 of the New Civil Procedure Code.

In essence, the judicial officer will proceed to identify the debtor's seizable movable assets and will freeze them by sequestration, either by applying seals, or by lifting the assets and entrusting them for safekeeping to a receiver-manager.

In the case of motor vehicles, the sequestration measure may also be ordered on the basis of data obtained from the community public service on driving licenses and vehicle registration; if the respective debtor is the registered owner of that asset, the judicial officer will send a copy of the sequestration minutes to the traffic police, with the indication to stop the sequestrated vehicle from traffic.

The judicial officer will draw up the sequestration minutes on the manner of carrying out this measure (art. 744 OF NCPC). On this occasion, he/she may also order the publicity of the sequestration (art. 742 of NCPC).

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

Within this subject, we can talk about enforcement of foreign decisions on the Romanian territory (art. 1.103 – 1.110 of NCPC).

A first peculiarity of the forced execution of such a title is the fact that, in this case, the enforcement court, unlike the general rule which recognizes the jurisdiction of the court, will be the Tribunal in whose jurisdiction the enforcement is to be carried out (art. 1.103 of NCPC).

Secondly, the forced execution of such a title must be preceded by its recognition by the Romanian national court (art. 1,104 with references to 1,096 of NCPC).

PART IV: ENFORCEMENT COSTS

IV.1 The costs of enforcement

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IV.1.1 The judicial officer's fees

In Romania, the relevant provisions for the regulations regarding the judicial officer's fees can be divided into 2 (two) categories: on the one hand, we have civil procedural provisions which examine the judicial officer's fee (**art. 670 of the New Civil Procedure Code**), and on the other hand, we have statutory provisions and provisions stipulated in special laws (**art. 39 of Law 188/2000 on judicial officers, with all subsequent amendments and completions, art. 55 of the Regulation implementing Law 188/2000 on Judicial Officers**) and in other categories of normative acts (**Order of the Minister of Justice no. 2550/2006 - updated by Order no. 2561/2012**), which explicitly indicate the criteria according to which the judicial officer's fee is established, the minimum and maximum amount of the fee, as well as the fact that this fee pertains to the category of judicial officer's rights.

Regarding the provisions of the New Civil Procedure Code, in **art. 670 para. (2) the final thesis and para. (3)**, the legislator stipulated that the judicial officer's fee will be borne by the debtor in proportion to the activity actually performed by the judicial officer in the execution of the enforcement file and also that the fee is established in accordance with the law - thus making direct reference to the specialized legislation mentioned above (the second category of provisions governing the subject in question).

As for the provisions of **art. 39 of Law 188/2000 on Judicial Officers**, they indicate - in essence - the method of calculating the fees in the case of enforcement files involving monetary claims, respectively:

- up to 10% of the amount of the claim which is the object of the enforcement - for claims up to 50,000 lei;
- 5,000 lei plus a percentage of up to 3% of the amount exceeding 50,000 lei from the value of the claim which is the object of the enforcement - for claims amounting to over 50,000 lei, but up to (and including) 80,000 lei;
- 5,900 lei plus a percentage of up to 2% of the amount exceeding 80,000 lei from the value of the claim which is the object of the enforcement - for claims amounting to over 80,000 lei, but up to (and including) 100,000 lei;
- 6,300 lei plus a percentage of up to 1% of the amount which exceeds 100,000 lei from the value of the claim which is the object of the enforcement - for claims whose upper limit exceeds the amount of 100,000 lei.

It is specified that the amounts indicated above represent the maximum reported amount at which the judicial officer's fee can be established, the minimum amount being indicated in detail and exhaustively for each particular situation **in the provisions of the Order of the Minister of Justice no. 2550/2006 - updated by Order no. 2561/2012**.

Moreover, enforcement files involving monetary claims are handled exclusively by seizure of movable assets, seizure by garnishment, seizure of the fruits and immovable

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assets income and seizure of immovable assets, these proceedings being the so-called indirect enforcement, which always has as object the recovery of a monetary claim; this is why the fees mentioned above apply to these activities.

The provisions of **art. 55 of the Regulation implementing Law 188/2000 on Judicial Officers** directly complement those of art. 39 of the Law, stating that the fee is a right of the judicial officer, that the Minister of Justice establishes, in consultation with the Council of the Union, the minimum and maximum amounts for fees related to enforcement activity, as well as the fact that, in their establishment, criteria such as the expenses of the judicial officer, his/her intellectual effort, the complexity and value of the act and the liability of the judicial officer for the act performed will be taken into account.

In view of these aspects, it can be deduced that from the point of view of the legislator, the fee is a real right - guaranteed and protected by the law - of the members of the National Union of Judicial Enforcement Officers and not just a simply reported sum of money evaluated according to the work carried out in the instrumentation of an enforcement file.

Regarding the remuneration of judicial officers for the activities consisting of direct enforcement, the provisions of the **Order of the Minister of Justice no. 2550/2006**, **updated by Order no. 2561/2012**, indicate in detail and exhaustively the minimum and maximum monetary value of these rights, as follows: **Notification and communication of procedural documents** (min. 20 lei - max. 400 lei); **Evacuations** (min. 150 lei - max. 2,200 lei for the natural person debtor and 5,200 lei for the legal person debtor); **Entrusting the minor or establishing the minor's domicile** (min. 50 lei - max. 1,000 lei); **Visiting the minor** (min. 50 lei - max. 500 lei); **Vesting, delimitation of property boundaries, easement, transfer of assets, etc.** (min. 60 lei - max. 2,200 lei for the natural person debtor and 5,200 lei for the legal person debtor); **Abolition of works or constructions** (min. 150 lei - max. 2,200 lei for the natural person debtor and 5,200 lei for the legal person debtor).

With regard to the other duties which fall within the material jurisdiction of the judicial officer, with the related fees, we mention: **The protest on non-payment of bills of exchange, promissory notes and checks** (min. 150 lei - max. 400 lei); **Findings of fact and inventory of assets** (min. 100 lei - max. 2,200 lei for the natural person applicant and 5,200 lei for the legal person applicant); **The sale at public auction of the asset which is the object of the judicial division** (min. 150 lei - max. 2,200 lei); **The Insurance sequestration, Judicial sequestration and Insurance garnishment** (min. 100 lei - max. 1,200 lei for the natural person debtor and 2,200 lei for the legal person debtor); **Minutes of bid meeting** (min. 50 lei - maximum 350 lei); **Any other documents or operations by law** (min. 50 lei - max. 200 lei); **Confiscations** - 10% of the obtained value; **Consultations in connection with the constitution of the enforcement acts** (min. 20 lei - max. 200 lei).

IV.1.2 Enforcement expenses to which the judicial officer is entitled

According to the New Civil Procedure Code of Romania, the subject of enforcement costs is explicitly regulated by a dedicated article entitled "***Enforcement costs***",

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respectively **art. 670 of the New Civil Procedure Code**, which, in its paragraphs, stipulates that: (1) The party requesting the performance of an act or of another activity related to enforcement is obligated to provide the expenses necessary for this purpose. For acts or activities ordered ex officio, the expenses are provided by the creditor. (2) The expenses prompted by the forced execution are borne by the pursued debtor, unless the creditor has given up the enforcement, in which case they will be borne by the latter, or if otherwise stipulated by law. The debtor will also be required to bear the enforcement costs established or, as the case may be, incurred after the registration of the enforcement request and until the date of fulfillment of the obligation established in the enforceable title, even if he/she has made the payment voluntarily. However, if the debtor, summoned according to art. 668, has executed the obligation immediately or within the term granted by law, he/she will be required to bear only the expenses for the enforcement acts actually performed, as well as the fee of the judicial officer and, if applicable, of the creditor's lawyer, in proportion to the activity carried out by these.

The article mentioned above, in paragraph 3, also offers a relatively detailed example of enforcement costs: stamp duties required to initiate the enforcement, the judicial officer's fee, established according to the law, the lawyer's fee in the enforcement phase, the expert's, translator's and interpreter's fees, the expenses incurred on the occasion of publicity of the forced execution procedure and with the performance of other acts of forced execution, the transportation expenses, other expenses stipulated by law or necessary for carrying out the forced execution.

It should be noted that the amounts due to be paid as enforcement costs are established by the judicial officer, by statement, based on the evidence submitted by the interested party, in accordance with the law.

Returning to the title of the subject and taking into account the fact that, according to the Explanatory Dictionary of the Romanian language, "a percepe" means to charge, in the following the difference between the enforcement expenses which the judicial officer is actually entitled to collect on account of his/her activity and the enforcement expenses which must be provided by the creditor will be treated based on **art. 647 of the New Civil Procedure Code** regarding the obligations of the parties, for the smooth and speedy performance of the forced execution procedure.

Thus, seeing also the provisions of **art. 670 of the New Civil Procedure Code**, forced execution expenses, which the judicial officer is effectively entitled to charge directly, for the smooth performance of his/her activity, include the following:

- Postal fees for establishing communications. The amount differs depending on the provisions of the contract concluded with C.N. Poșta Română/Romanian Post, but generally being of the equivalent value of 5.9 lei / communication;
- Xerox expenses incurred for attaching the accompanying documentation to certain enforcement acts (**art. 666 para. (1) of the New Civil Procedure Code**, for the request for approval of the forced execution the creditor's request, the enforceable title, the statement of registration and opening of

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the enforcement file, in certified copy by the judicial officer for conformity with the original, shall be attached), (**art. 667 para. (1) in relation to art. 668 of the New Civil Procedure Code**, for the issuance of the summons, the writ of execution, as well as the enforceable title, in a copy certified by the judicial officer for conformity with the original, shall be attached), (**art. 783 para. (1) of the New Civil Procedure Code**, for issuing the address for the establishment of the garnishment the writ of execution or the certificate on its minute, and the enforceable title - if it has not been previously communicated, in copy certified by the judicial officer for compliance with the original, shall be attached);

- Xerox expenses incurred on the occasion of the submission, according to **art. 717 of the New Civil Procedure Code** regarding the trial procedure of the appeal against enforcement, of the copies certified by the judicial officer for conformity with the original on the documents of the challenged enforcement file, to the enforcement court;
- *According to the last decision of the Council of the National Union of Judicial Enforcement Officers on the matter, the rate of 1 leu / page was approved as equivalent to the xerox expenses necessary to satisfy the requirements listed in the 2 sentences above;*
- The transportation expenses and the trips necessary for the forced execution, which must be established in good faith, depending on the distance and the means of transportation, only for the purpose of effectively solving the forced execution procedure instrumented in a certain file.

In practice, other expenses than those mentioned above can be inserted, the law being relatively flexible and generous from this point of view, as stipulated by **letter 7 of para. (3) of art. 670 of the New Civil Procedure Code**: "*other expenses provided by law or necessary for the performance of enforcement*", but it is estimated that the examples mentioned above are likely to generally satisfy *the enforcement costs that the judicial officer has the right to charge*.

Regarding forced execution expenses, which the judicial officer is entitled to collect from the debtor, by statement issued under the conditions of **art. 657 related to art. 670 of the New Civil Procedure Code**, but which - as a premise situation - are considered to have been provided by the creditor, in accordance with the provisions of **art. 647 para. (1) of the New Civil Procedure Code** regarding the obligations of the parties, and which must be submitted to the creditor once recovered, we can mention: the stamp duty necessary to approve enforcement - 20 lei / enforceable title; the fee necessary to legalize a court decision - 5 lei / decision; the stamp duty required to validate the garnishment - 20 lei; the fees charged by the National Agency for Cadastre and Real Estate Advertising / ANCPI for the registration / erasure of the immovable asset's seizure - 75 lei (valid on 25.06.2020 according to the list of rates published by ANCPI); expenses necessary for advertising the sequestration (AEGRM fees); various fees charged by ONRC or local financial services for solving the inquiry addresses of

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pursued movable / immovable assets in the debtors' property; fees of the lawyer in the forced execution phase, of judicial technical experts and of interpreters, etc.

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