



# Slovakia

## Narrative National Report

**Author:** JUDr. Jozef Liščák, Judicial officer, Banská Bystrica, Slovakia

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



## Table of Contents

<b>PART I: LEGAL FRAMEWORK .....</b>	<b>4</b>
I.1 Legislation affecting civil enforcement.....	4
I.2 Enforceable titles.....	5
I.3 Service of documents to parties and third parties .....	6
I.4 Legal remedies, appeal and objection.....	9
I.5 Postponement, suspension and termination of enforcement .....	10
I.6 Counter enforcement .....	13
I.7 Objects and exemptions on enforcement .....	14
I.8 (Court) penalties and fines .....	16
I.9 Access to information on the domicile and assets of the debtor .....	17
<b>PART II: ORGANIZATION OF ENFORCEMENT.....</b>	<b>20</b>
II.1 The status of the judicial officer.....	20
II.2 Supervision over enforcement .....	21
II.3 Access to the premises.....	22
II.4 Obstructing the judicial officer from carrying out enforcement .....	23
II.5 Time of enforcement .....	23
II.6 Mediation .....	24
<b>PART III: ENFORCEMENT PROCEDURES .....</b>	<b>24</b>
III.1 Initiation and end of the enforcement procedure .....	24
III.2 Enforcement against movable assets to settle pecuniary claims .....	26
III.3 Attachment on the bank account of the debtor.....	29
III.4 Enforcement against savings deposits and current accounts.....	31
III.5 Enforcement on immovable property.....	32
III.6 Enforcement against wages and other permanent pecuniary income .....	35
III.7 Attachment under the debtor's debtor.....	38
III.8 Enforcement against shares .....	40
III.9 Other attachment procedures .....	42
III.10 Handing over movable assets .....	43
III.11 Enforcement in reinstatement of employee to work .....	45
III.12 Eviction .....	46
III.13 Enforcement of obligations to act, refrain from acting or suffer action.....	48
III.14 Sequestration of goods .....	50
III.15 Enforcement of foreign enforceable documents from non-EU States .....	50





**PART IV: ENFORCEMENT COSTS ..... 53**

**IV.1 The costs of enforcement ..... 53**

**PART V: LINKS, LITERATURE AND SOURCES ..... 58**



## PART I: LEGAL FRAMEWORK

### I.1 Legislation affecting civil enforcement

The basic legal instrument governing the enforcement procedure is Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended **(the Enforcement Code)** (*Exekučný poriadok*).

In the alternative, the basic civil procedure code will be used for enforcement proceedings - Act No. 160/2015 Coll. the Contentious Civil Procedure Code (*Civilný sporový poriadok*). It is the source of the enforcement law mainly because its provisions apply to enforcement proceedings, unless the Enforcement Code provides otherwise. These are, in particular, the provisions on service, procedural acts, remedies et cetera.

These provisions meet the constitutional basis expressed in Article 46 par. 1 of the Constitution of the Slovak Republic (*Ústava Slovenskej republiky*), under which, everyone may claim his/her or her right by procedures laid down by law before an independent and impartial court or, in cases provided by a law, before other public authority of the Slovak Republic. One of these authorities is also an executor/a judicial officer. Thus, the exercise of the right to executive-legal protection is also the exercise of the constitutional right to judicial protection through a system of enforcement bodies, judicial officers and the enforcement court.

The Enforcement Code also applies in cases where a decision from another country is to be enforced in accordance with Article 40-1, 42-1 of the Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, other EU regulations and the provisions of Slovak private international law.

Compulsory enforcement is also regulated by other legal provisions. The enforcement in matters of minors is established by the fourth part of Act No. 161/2015 Coll. the Non-Contentious Civil Procedure Code (*Civilný mimosporový poriadok*). The enforcement of judicial receivables is stipulated in the second part of Act No. 65/2001 Coll. on administration and the enforcement of judicial receivables.

In case of administrative decisions of state administration and public administration bodies, it is possible to enforce the decision in administrative proceedings pursuant to the fifth part of Act No. 71/1967 Coll. on Administrative Proceedings (Administrative Procedure Code) (*Správny poriadok*). In the case of decisions of tax authorities, it is possible to enforce the decision through tax enforcement under the fourth part of Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code) (*Daňový poriadok*).

Other legal frameworks related to enforcement include Act No. 7/2005 Coll. on bankruptcy and restructuring, including the legal rules governing the settlement of the circumstances of a debtor who is in bankruptcy. This law distinguishes 3 forms of solving the debtor's bankruptcy: a) bankruptcy when the debtor's assets are monetised and his/her obligations to creditors are relatively satisfied. The consequences of bankruptcy, especially in relation to a legal entity, are its cancellation, liquidation, termination; b) restructuring – a gradual satisfaction of the

debtor's obligations to creditors on the basis of the so-called restructuring plan; and c) debt relief of a natural person.

Voluntary auctioning is aimed at monetising the subject matter and other property rights and changing ownership. Its modification is included in Act No. 527/2002 Coll. on voluntary auctions. Although a voluntary auction is legally designated as voluntary, if it is used as a means of exercising a lien, elements of involuntariness can also be found here, as the auction is not lodged by the owner of the auction object but by the lien creditor, who enforces his/her rights.

## 1.2 Enforceable titles

Enforceability is a feature of a judicial decision which consists in its direct enforcement through the State, even **against the will of the party** who, in his/her view, has to satisfy a certain obligation.

**An enforceable title** is an enforceable court decision if it grants a right, establishes an obligation or affects assets. Under the Enforcement Code an enforceable title may also be:

- a decision by an institution, body, office or agency of the European Union;
- an enforceable title from another country that is enforceable in Slovakia;
- a notarial deed containing a legal obligation and specifying the creditor and debtor, the legal grounds, the subject and the timing of performance, if the debtor in the notarial deed has consented to enforceability;
- an enforceable decision issued in arbitration proceedings, including the conciliation approved therein;
- a decision on inheritance;
- an enforceable decision by a public administration or regional self-government body, including a notice for a penalty that was not paid on the spot;
- a payment assessment, statement of arrears for taxes and fees, and conciliation approved by the appropriate body;
- an enforceable decision and statement of arrears for social security, social insurance, the old age pension scheme and public health insurance;
- another enforceable decision, statement of arrears or approved conciliation that is enforceable by law;
- a document issued under legislation in force in another EU Member State, if this concerns the recovery of a receivable as specified in the relevant legislation (Sec. 8 of Act No. 466/2009 Coll.);
- notification of the suspension of enforcement and a call for the payment of the costs of enforcement under Sec. 61n par. 3;
- an enforceable title specified in the relevant legislation (e.g., Sec. 105 and Sec.

161 par. 3 of Act No. 7/2005 Coll.).<sup>1</sup>

An enforceable title is usually issued by a court or administrative body, while enforcement cannot be carried out only on the basis of a contract, bill or promissory note, check or another private law document.

In the vast majority of cases, the law requires that the enforceable title is accompanied by a **certificate of enforceability**, as only an enforceable decision of a court or other body can be enforced in enforcement proceedings. An exception is the **notarial deed**, in which the liable person already agrees with enforceability when forming it, and the notification of the suspension of enforcement and a call for the payment of the costs of enforcement, issued by a judicial officer.

In other cases, a certificate of enforceability is required, which is indicated on the enforceable title by the court that ruled on the case as a court of first instance, or another body provided for by law, but usually the authority that issued the enforceable title. In the case of the vast majority of enforceable titles (court decisions), the court itself sends a decision with a marked clause of validity and enforceability after the decision is valid.

If an enforceable title is a decision by an institution, body, office or agency of the European Union, the enforceability is characterised by the Ministry of Foreign and European Affairs of the Slovak Republic.

In case of an **enforceable title from another country** that is enforceable in Slovakia, the enforceability is characterised by the body of the foreign state where the enforceable title was issued.

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

Enforcement commences with the delivery of the **court's authorization** to the judicial officer. After the commencement of the enforcement, the executor notifies the creditor and the debtor of the fact that enforcement has commenced and of the methods to be performed and appeals to the debtor to satisfy the requested claim.

From a procedural point of view, the first and the most important document, served by an executor to parties in proceedings, is the Notice of enforcement commencement. This document must comply with strict formal particulars, as its delivery to the debtor is dependent to the further procedure of the executor as well as the procedural authority of the debtor.

**The Notice of enforcement commencement**, in addition to the information on the beginning of enforcement, the determination of the methods of enforcement and the invitation to the debtor to satisfy the claim, must contain:

- a) the judicial officer, who has issued it,
- b) the enforceable title and the body that has issued it,
- c) the creditor and the debtor and their representatives,

---

<sup>1</sup> Sec. 45 par. 1 and 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

- d) the claim to be enforced,
- e) the amount of costs for the satisfaction of the enforced obligation within 15 days from the delivery of the Notice of enforcement commencement,
- f) the amount of costs after the expiration of 15 days from the delivery of the Notice of enforcement commencement, if the debtor has not satisfied the enforced obligation within the period under note e),
- g) advice on the possibility of lodging a petition to suspend enforcement, on the manner in which it has to be lodged and on the period within which the petition has suspensive effect,
- h) advice on the legal effects of the Notice of enforcement commencement and on the possibility of requesting authorization to satisfy the obligation to be enforced in instalments,
- i) advice on the possibility of objecting to the recognition or enforcement of a decision from another country, unless a declaration of enforceability is required under special legislation, to the extent permitted by that special legislation.

If the basis for the enforcement is an enforceable title from another country, other documents are attached to the Notice of enforcement commencement, if so, provided by special legislation. An enforceable title from another country is also attached to the notice, if it has not been delivered to the debtor before.

The Notice of enforcement commencement is delivered to the creditor and to the debtor. The **debtor will have it delivered to the addressee only**; hence, the addressee will confirm the reception of the document on the confirmation of the document delivery.

From the point of view of the method of delivery, it is important whether the debtor is a natural or legal person.

If a debtor is a **legal entity**, the documents are delivered to its **electronic mailbox** according to the so-called e-Government Act<sup>2</sup>, whereby the executor indicates at the time of delivery that the delivery is "for the addressee only". Documents delivered to an electronic mailbox have the same legal effect as if they had been delivered in paper form via post office. After receiving the message in the e-mail box, the document is saved with a storage period. The storage period of 15 days runs from the day following the day of lodging the electronic official report. After this period, a fiction of delivery applies. The message is considered delivered after the expiration of the period, even if the owner of the mailbox did not actually open it, with the exceptions provided by law.

The effect of delivery to one's own hands will (except for specified exceptions) occur at the moment of opening the message by the addressee (and by confirming the

---

<sup>2</sup> Act No. 305/2013 Coll. on the electronic form of governance conducted by public authorities and on amendments and supplements to other acts (e-Government Act).

delivery note), or after the expiration of 15 days from its storage. After 15 days, the effects of the Notice of enforcement commencement begin to take effect, regardless of whether or not the concerned legal person became aware of the consignment.

If a debtor is a **natural person**, in order to protect the rights of persons, the procedure is more complex so that the liable person actually receives the document and has the possibility to exercise his/her rights. In the first place, the executor delivers the notice to the address indicated by the creditor in the petition for enforcement. If the Notice of enforcement commencement has not been delivered to this address, the executor will carry out an **investigation to find out another address** of the debtor. When investigating the residence of the liable party, it is based mainly on the registers at his/her disposal, hence in particular on the Register of Residents, or, in the case of an entrepreneur, the Trade Register or the Business Register. The Notice of enforcement commencement shall be sent immediately to the address thus determined.

If, despite the investigation conducted, the Notice of enforcement commencement fails to be delivered to the debtor within three months of the commencement of enforcement, it is delivered to them by a **notice in the Commercial Journal**; at the same time, the Notice of enforcement commencement is delivered to the court, which publishes it on the official notice board or on the website. In this case, the Notice of enforcement commencement is deemed to have been received 30 days after the day following the publication of the notice in the Commercial Journal.

Depending on the manner of enforcement, the judicial officer simultaneously issues an Enforcement Order, instructing the third party to execute and to perform payroll deductions from the debtor's salary or not to pay his/her receivable from the date of the Enforcement Order delivery.

The debtor has the right to lodge a **petition to discontinue the enforcement** within 15 days of the delivery of the Notice of enforcement commencement. After the expiry of this period, if the debtor does not lodge a petition to discontinue enforcement, or if such a petition is lodged, after the executor has received the court's decision to reject this petition, the executor will issue an Enforcement Order (an order to initiate the enforcement), depending on the manner of enforcement. The Enforcement Order is delivered to the creditor, debtor and authority that performs the given method of enforcement (for example bank, employer). It shall be delivered to the debtor and the executing authority.

When a debtor has satisfied an enforced claim including costs of enforcement, or a judicial officer has enforced a claim, including costs of enforcement, a judicial officer issues the Notice of termination of the enforcement. Part of the Notice is the final statement of the enforcement proceedings, in which a judicial officer states in particular the amount of the creditor's enforced receivable, the amount of the creditor's recovered costs and the amount of the enforcement agent's recovered costs. A judicial officer will send a Notice of termination of the enforcement to the parties in the proceedings and to a court. The delivery of the Notice to a court ends



the enforcement proceedings.<sup>3</sup>

#### **1.4 Legal remedies, appeal and objection**

Objections against enforcement as a defence of the debtor were abolished by law in 2017 and replaced by a new remedy, a petition to discontinue enforcement. The law distinguishes between a petition to discontinue enforcement with suspensive effect and a petition to discontinue enforcement without suspensive effect.

The debtor may lodge a petition to discontinue the enforcement within **15 days** of the delivery of the Notice of enforcement commencement. This must be substantiated and must state all the facts that the debtor may use till the day of lodging the petition. Such petition has a suspensive effect. The court decides on petitions to discontinue the enforcement with suspensive effect.

Under the Enforcement Code the debtor may request the court for a **discontinuation of enforcement**, for the following reasons:

- a) circumstances since the inception of the enforceable title have resulted in the extinction of the claim;
- b) the enforceable title has been revoked;
- c) under specific legislation there are grounds,<sup>4</sup> for which the recognition or enforcement of an enforceable title from another country is inadmissible, unless the title could have been applied earlier in the proceedings (Sec. 54 par. 2);
- d) there are other factors obstructing the enforcement of the enforceable title.

A debtor may lodge a petition to discontinue the enforcement even later than 15 days after the delivery of the Notice of enforcement commencement, but such petition no longer has a suspensive effect. Therefore, the enforcement will continue regardless of the court not having decided on the petition yet. In following petitions to discontinue enforcement, the debtor may only object to those facts that occurred after the expiration of the period of 15 days from the delivery of the Notice of enforcement commencement. In the further petitions to discontinue enforcement, the debtor may only object to the facts that occurred after the lodging of the previous petition to discontinue enforcement. These restrictions shall not apply in the case of facts the debtor could not have previously invoked through 'no fault of his/her own'.

---

<sup>3</sup> Sec. 61o of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>4</sup> For example, Regulation (EU) No. 1215/2012 as amended, Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (*Official Journal L 143, 30/04/2004*) as amended, Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (*Official Journal L 399, 30/12/2006* as amended, Regulation (EC) No. 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (*Official Journal L 199, 31/7/2007*) as amended, Regulation (EU) No. 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (*Official Journal L 181, 29/6/2013*).



The petition to discontinue the enforcement is lodged before the judicial officer. If the debtor has proposed the suspension of enforcement, the judicial officer invites immediately the entitled party to comment on the petition within a period of no less than ten days. If the creditor agrees to discontinue the enforcement, the executor issues a notification of the suspension of enforcement, which is delivered to the parties in proceedings and the court; otherwise, within five working days after the expiry of the deadline for the opinion, **the authorized executor lodges a petition to discontinue the enforcement together with his/her opinion and any opinion of the authorized court.**

As a rule, a session is not required for the hearing of the petition to discontinue the enforcement and the court will order it only if it deems it necessary. At the same time, before deciding the case, the court may require a hearing of a certain person.

**If there is a reason to suspend the enforcement, the court will suspend the enforcement** and decide on its costs, including the determination of their amount; **otherwise, the petition will be rejected.** If a court rejected a petition to suspend the enforcement on the grounds that the petition was lodged too late, even though there is a reason to suspend the enforcement, a debtor has the right to demand the return of the payment performance by an action lodged against a creditor.<sup>5</sup>

The decision on the petition to discontinue enforcement shall be delivered to the entitled party, the debtor and the executor. An appeal is admissible only against the decision to suspend enforcement as stated above under note c); in this case, the judge rules on the petition to discontinue enforcement in the first instance.

In other cases, a senior judicial officer rules in the first instance, albeit a complaint against his/her decision is admissible, determined by a judge. Consequently, no appeal is admissible against the judge's decision.

Despite the fact that the institution of objections against enforcement has been abolished, in specific cases the law still allows objections. That is against a notification of the suspension of enforcement and a call for the payment of the costs of enforcement, against a judicial officer's price estimation in enforcement against movable assets, against accepting bids in an auction and the allocation gain from enforcement on immovable property and against housing compensation when evicted. The enforcement court rules on these objections.

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

The legal grounds for granting a **postponement of enforcement** are set out under Sec. 61h par. 1 of the Enforcement Code. A **judicial officer issues a notification of the postponement of enforcement and delivers it to the parties in proceedings, debtor's wage payer, bank, institute, creditor or other parties affected by the enforcement,** if:

- a) the debtor has died underway the enforcement;

---

<sup>5</sup> Sec. 61l par. 3 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

- b) a special action (*'exclusion action'*) has been lodged, or proceedings are underway to determine ownership, under Sec. 44 par. 9;
- c) the debtor, who is a natural person, has made an application for instalments to be permitted, and it has been taken into consideration;
- d) the debtor, who is a natural person, has made an application for a stay of enforcement and has declared that through no fault of his/her own he/she is temporarily in a situation where immediate enforcement could have especially severe consequences for him/her or members of his/her family;
- e) in enforcement to recover maintenance, the debtor has paid the maintenance owed, including the creditor's and the judicial officer's costs, has made an application for a stay of enforcement and has declared that he/she will voluntarily continue to pay regular maintenance via the judicial officer;
- f) the debtor, who has lodged a petition for the discontinuation of enforcement, has remitted security equal to the value of the claim to a special account that the judicial officer has opened to this end;
- g) resulting from the specific legislation that the enforcement has been postponed or terminated;
- h) it has been ruled that the enforcement should be postponed after the initial commencement of the enforcement;
- i) a court has lodged a petition to the Constitutional Court of the Slovak Republic to commence the enforcement, whereas it has concluded that the conditions for proceedings compliance are met;
- j) a court has made a reference to Court of Justice of the European Union for preliminary ruling based on an international treaty, which is the Slovak Republic bound with.<sup>6</sup>

The **debtor's application for authorization of instalments**, which is taken into account (under note c), is considered to be an application of the debtor as a natural person, which is not repeated, the debtor does not question the claim, the claim exceeds neither the minimum wage nor the amount of EUR 2,000, the debtor declares that the enforced claim will be paid in a maximum of ten monthly instalments, which with the exception of the first and last instalment will be evenly allocated, and the debtor will pay the first instalment of at least EUR 50 within 15 days of delivery of the Notice of enforcement commencement, and states that following instalments will be paid monthly, always on the day of the calendar month, which numerically coincides with the day of payment of the first instalment.

Even without the satisfaction of these conditions, the payment of instalments and the postponement of enforcement will be permitted if the entitled party agrees. However, the postponement of enforcement lasts only if the instalments are paid properly and

---

<sup>6</sup> Sec. 61h par. 1 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

on time, otherwise the executor will cancel the postponement of enforcement. Likewise, the postponement of enforcement lasts only during the proper payment of maintenance under note e).

In case of an application by the debtor, under note d), enforcement may be postponed only for the period specified in the application, but for **no longer than three months** from the submission of the application. Enforcement can be postponed for a longer period only with the consent of the entitled party. However, such request may not be lodged repeatedly, even at the time when the debtor has already received the auction notice or the debtor has already been allowed to repay the recovered claim in instalments.

During the postponement of enforcement for reasons under notes a), b), d), g), i) and j) (hereinafter referred to as “postponement with blocking”), the **executor may perform actions aimed at identifying and attaching the assets as a subject to enforcement**. The law refers to this as postponement with blocking. Postponement of enforcement for reasons under notes c), e), f) and h) is postponement without blocking, meaning the executor does not perform actions aimed at attaching the assets as a subject to enforcement and if he/she has already performed such acts, he/she discontinues them.

As for the possibility **of suspending the enforcement**, the debtor is the first, who may lodge a petition to suspend the enforcement, while the reasons and conditions for lodging a petition are set out in Chapter 1.4. **Such petitions to suspend the enforcement are decided by the enforcement court.**

In other cases, the **law entrusted the decision to suspend the enforcement directly to the executor** as the first instance body.

A judicial officer issues a notification of suspension of enforcement, if:

- a) either the creditor or the debtor has died without any legal successor or the inheritance proceedings of the creditor or the debtor were suspended due to the fact that he/she left no property or only property of insignificant value;
- b) the suspension of the enforcement was proposed by the creditor;
- c) in the case of enforcement of a legal person's property, it was not possible, within 30 months from the enforcement commencement or from the last distrained property, to identify assets or incomes that could be affected by the enforcement and which would be sufficient to cover at least the judicial officer's costs;
- d) in the case of enforcement of a natural person's property, it was not possible, within five years from the enforcement commencement or from the last distrained property, to identify assets or incomes that could be affected by the enforcement and which would be sufficient to cover at least the judicial officer's costs;
- e) the creditor did not make an advance on the necessary costs of conducting the proceedings;

- f) it follows the special legislation 7s) that the enforcement was suspended;
- g) it follows the special legislation 7t) that there is a reason to suspend the enforcement; or
- h) during the enforcement for the recovery of a maintenance claim, which was postponed under Sec. 61h par. 1 note e), the debtor, through the judicial officer, has paid the normal maintenance in a proper and timely manner for three consecutive months.<sup>7</sup>

If the enforcement is suspended in its entirety, in the notice of suspension of the enforcement, the executor calls the entitled party to pay the reimbursement of expenses and this notice is delivered by the executor to the parties in proceedings.

In the case of a reason for suspension of enforcement under notes c) to e) and g), the party in proceedings may, within 15 days from the delivery of the notice of suspension of enforcement, lodge objections against the notice of suspension of enforcement and call for reimbursement of the executor's costs. The objections, together with the challenged notice of suspension of enforcement and the request for reimbursement of the executor's costs shall be lodged by the executor without delay before the court for the decision.

The enforcement proceedings are then terminated if the objections have not been lodged or are inadmissible, by delivering a notice of suspension of the enforcement to the court or, if objections have been lodged, by the validity of the decision rejecting the objections.

If the enforcement has been terminated, the **executor discontinues all acts he/she has taken in order to attach the assets as a subject to enforcement, within three working days**, and notifies immediately the persons or authorities concerned thereof.<sup>8</sup>

## 1.6 Counter enforcement

In the enforcement proceedings, the mutual relations of the creditor as a creditor and the debtor as a debtor are no longer taken into account. The judicial officer is bound by the claim of the creditor, which must be based on an enforceable title of enforcement, which is mostly a court decision. Therefore, if the debtor has a mutual receivable against the creditor, **he/she cannot unilaterally request its inclusion in the enforcement and such receivable must be decided in judicial proceedings**, or in a different way as to obtain an enforceable title (see chapter 1.2). Only if the debtor has an enforceable title of enforcement against the creditor, instead of lodging a special petition for enforcement, he/she may subsequently propose the suspension of enforcement in the part in which the receivables are covered directly in the enforcement which is directed against them.

<sup>7</sup> Sec. 61n par. 1 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>8</sup> Sec. 61p of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

The offsetting of receivables is only dealt with in Sec. 61e of the Enforcement Code: After the commencement of enforcement, the unilateral set-off of the debtor's mutual receivable against the creditor is not taken into account, unless it is granted by an enforceable title on the basis of which the debtor may lead the enforcement.<sup>9</sup>

### 1.7 Objects and exemptions on enforcement

The enforcement may not affect items whose **sale is prohibited under special legislation** or which are not subject to enforcement. The enforcement, for example, is not possible under the newly framed Sec. 111 of the Enforcement Code to cover receivables for childbirth allowance and funeral allowance receivables. These receivables are subject to enforcement only if enforcement is proposed for a receivable for the provided performance, for the payment of which these contributions are intended.

Other benefits which are not subject to enforcement are the 13th pension, material need benefit and allowances, cash allowances to compensate for severe disability, social protection measures for children and social guardianship of a financial nature, replacement alimony, allowances to support substitute childcare and state social benefits.

Under Sec. 104 of the Enforcement Code the enforcement is not subject to **funds in the account up to the amount of EUR 165** and funds which, by an express declaration of the debtor, are intended for **payment to his/her employees** for the payment period closest to the day when the bank was ordered to initiate the enforcement.

It is clear from this general calculation, in particular, that one of the basic principles of the enforcement proceedings is the principle that the creditor should be **satisfied solely from the debtor's material possessions**. The rights to possession connected exclusively with the liable party are distrained. The rights to matters relating to third parties, on the other hand, are protected. The rights to matters connected with the person of the debtor, which are protected by Enforcement Code, are stated in the provisions of Sec. 115 of the Enforcement Code. These are basically assets, which are in the possession of the debtor and cannot be affected by the executor; namely, assets that the debtor necessarily needs to satisfy his/her and his/her family material needs or to serve for his/her work duties. **Items excluded from enforcement** resulting from 'no fault' include:

- a) ordinary items of clothing, underwear and footwear;
- b) essential household equipment, namely the beds of the debtor and members of his/her family, a table, chairs according to the number of members of his/her family, refrigerator, a cooker, a heater, fuel, a washing machine, duvets and bed linen, standard kitchen utensils, a radio;
- c) pets other than those serving for enterprise;

---

<sup>9</sup> Sec. 61e of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

- d) items belonging to the debtor serving for his/her work or enterprise, up to the amount of EUR 331.94;
- e) medical supplies and other items the debtor needs due to his/her sickness or physical disability;
- f) items for which benefits in material need and benefit allowances have been provided under specific legislation; financial contributions provided under specific legislation as compensation for a serious disability, and child protection measures of a financial nature provided under specific legislation;
- g) a motor vehicle which the debtor, who is a natural person, needs for private transport and to satisfy the needs of a natural person with a serious disability and the needs of his/her family or members of his/her household;
- h) engagement and wedding rings;
- i) cash up to EUR 165;
- j) textbooks and toys.

The items of a land-based entrepreneur are also excluded from enforcement, if their enforcement would endanger the proper management of agricultural land or the preservation of the smooth operation of plant and animal production according to special legislation, and farm animals, meaning dairy cows, heifers, breeding bulls, breeding pigs, breeding boars, ewes and breeding rams. The saver's share in the assets of the pension fund and the participant's share in the assets of the supplementary pension fund corresponding to the amount of the employer's contributions paid for this participant and the income from their investment are also excluded from enforcement.

At the same time, in accordance with the principle of proportionality, under Sec. 114a of the Enforcement Code, if the enforcement is to affect the movable assets of the debtor that serve or are related to the business, the executor is obliged to proceed in enforcement in a way not to put the debtor's business activity in jeopardy, beyond the necessary extent. He/she is obliged to penalize movable assets by enforcement in the following order:

- a) items that are not used for business;
- b) items that are related to business, but without which business is possible;
- c) items without which business is not possible.

There are also exemptions from **enforcement against the State**:

- (a) real estate owned by the state and under the administration of an administrator according to specific legislation, other than real estate under temporary administration according to specific legislation;
- (b) state budget revenues, money on the current account of a stated-funded organization and receivables from the legal relations establishing such revenues;

- (c) securities owned by the state, and the state's equity in legal persons;
- (d) money intended to cover the state budget deficit and the national debt;
- (e) other assets of the state, as provided for by specific legislation.
- (f) Other state assets and the assets of the Export-Import Bank of the Slovak Republic (*Exportno-importná banka Slovenskej republiky*) if they have been excluded from enforcement on the grounds that they are essential for the performance of the state's work, or for a public benefit purpose, or that the Export-Import Bank's assets are essential for its work. In such cases a petition to exclude items from enforcement may be lodged within 60 days following the service of notification of the initiation of enforcement. Enforcement proceedings on such state assets may only be conducted on state assets under the administration of an administrator of state assets, from whose activity the obligee's claim has been established.

### 1.8 (Court) penalties and fines

The debtor **must respect the executor's summons** and meet his/her obligations as a party in enforcement proceedings. Thus, in particular, he/she must provide the executor with the **co-operation** he/she requires and all the explanations requested by the executor, and respect the summonses and other instructions of the judicial officer. If the debtor is a legal entity, this obligation is concerning the statutory body or member of the debtor's statutory body, the debtor's procurator, the professional representative responsible for the business, the debtor's liquidator, the compulsory administrator of the debtor and the debtor's legal representative.

If the debtor does **not provide co-operation** to the executor at the request of the court, the **court may, by a resolution, impose a disciplinary fine** on the executor's suggestion. The court shall deliver the resolution on the imposition of the disciplinary fine to the executor and to the person to whom the disciplinary fine was imposed. The disciplinary fine is the income of the state budget.

It is also possible to impose a disciplinary fine on the debtor if the latter does not provide the executor, at his/her request, with a **property declaration**. If the debtor provides intentionally false information in this statement, in addition to the possibility of imposing a disciplinary fine, a criminal sanction can also be imposed, as this constitutes the criminal offense of obstructing enforcement proceedings under Sec. 243a of the Criminal Code.

The executor also has the ability to **request the bodies of the Police Force to bring the debtor**, if the debtor does not provide the executor with the required co-operation, this deficiency prevents the termination of the enforcement and the executor has instructed them on the possibility of taking in for questioning. The costs for this are paid by the debtor.

**The provisions on imposition of disciplinary fines for failure to provide co-operation by the debtor shall also apply to third parties**, who are requested by the executor to provide co-operation, and fail to do so. These are, in particular, courts, state



administration bodies, municipalities, higher territorial units, notaries and other natural and legal persons who decide on the rights, legally protected interests and obligations of natural and legal persons to notify the executor, at his/her written request, of the debtor's assets, which are known to them from their official activities and are necessary for the enforcement, banks, insurance companies et cetera.

The court may also, on the petition of the executor, impose a disciplinary fine on the debtor and his/her employer for failing to meet the obligations related to the change of employment of the debtor, in particular the employer's **obligation to notify the executor of termination of the employment**, his/her new employer and claim from the latter a certificate issued by the person with whom he/she was last employed as to whether an order for the commencement of the enforcement or an Enforcement Order has been issued, to which executor and for whose benefit.

As mentioned above, in addition to the punishment of a disciplinary fine, there is also the possibility of a **criminal sanction** imposed on the debtor, where in addition to providing false information in the property declaration, another criminal offense of obstructing the enforcement are altering or destroying the recorded information about the property or financial activities of the liable party, removes, damages or destroys a movable asset included in the listing, or does not issue an item being subject to enforcement. The law stipulates a penalty of up to two years' imprisonment for the above-mentioned criminal offense; in the event of large-scale damage, the penalty is from three to eight years.

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

Without ascertaining the assets of the debtor, it would be impossible to effectively obtain the receivable from the creditor, which the debtor does not voluntarily meet. To ensure that these facts are ascertained, the law states a wide range of entities that are obliged to provide co-operation with the executor, especially in relation to providing information on the debtor's property.

These entities - **third parties are obliged to provide co-operation** at the executor's request, if he/she has proved that he/she is authorized to perform by a court. However, the extent of the co-operation required by the executor must be proportionate to the amount of the claim to be enforced.

#### **Entities required to co-operate include:**

- Courts, prosecutor's offices, other state bodies, local self-government bodies, other public authorities, notaries, other natural and legal persons, who decide on the rights, legally protected interests and obligations of natural persons and legal entities, or which, due to the subject of their activity have records of persons and their property, (in particular the body which keeps records of immovable property, motor vehicles, driving licences and the central securities depository).
- The Police Force, which provides the executor with protection according to special legislation.

- Third parties that hold records or property documentation related to or subjected to enforcement, shall allow the executor to inspect those records, documents or assets and, upon request, issue or take other action required by the executor to provide those records, documents or property; this is without prejudice to the obligation of professional secrecy.
- At the request of the executor, the banks shall report the account numbers of the debtor, the balances of the debtor's accounts and changes, information on the custody of securities and passbooks.
- In particular, the postal service provider shall notify whether the debtor has mailboxes, details of the number of items sent there and their senders, the sum of the amounts received by post or to his/her post office, or shall allow the executor to obtain these data and verify their accuracy on the spot.
- Undertakings providing electronic communication networks or electronic communication services shall report to the executor details of the debtor's telephone numbers which are not included in the publicly available lists.
- Insurance companies shall notify the executor of data on the preconditions for the origin of the debtor's right to insurance premiums and the payment of indemnity in favour of the debtor.
- Publishers of the press shall notify the executor of the name of the advertiser concerning the disposal of the debtor's property published under the trademark.
- The carriers shall notify the executor of the receiver of the transported cargo, as well as the data on the transported goods.

Third parties are obliged to co-operate with to the executor **without delay, free of charge and preferably electronically**, particularly for economic reasons and reasons of speed of the proceedings. The executor may not harass a third party with requests for co-operation in excess of what can be fairly required of them. In the event of non-cooperation, the provisions on disciplinary fines shall apply.

Some entities have technical conditions for providing **co-operation to the executor through shared and continuous direct access, in particular access to a register**. In this way, it is possible to ascertain whether the debtor owns or has a motor vehicle in the Central Register of Motor Vehicles, whether he/she owns a property in the Slovak Land Register, the debtor's receivables according to the Central Register of Enforcements and the debtor's business shares according to the Business Register. Access to these databases requires specific login data of the executor, with the exception of the Business Register, which is public.

In an **automated manner via electronic communication**, the executor is also provided with data on the balance of the debtor's accounts in **banks**, checking of the employer or payer of other income in the Social Insurance Agency, as well as personal data and data on the debtor's residence in the Slovak Population Register.

The executor is **obliged to maintain confidentiality about all facts, which he/she learned in the process of his/her activities under this Act** and through activities within the Chamber. This obligation does not end with the suspension, the interruption or the termination of the performance of the executor's function. The duty of confidentiality applies, to the same extent, to the executor and to the executor's employees, even after the termination of the employment relationship with the executor, as well as to other persons who have learned about the facts related to the performance of executor's activities under this Act.<sup>10</sup>

However, the duty of secrecy of the executor **is not absolute** and does not apply to the provision of information to law enforcement agencies, to the court, to the chamber and to the Ministry supervising the executor's activities, to tax authorities, to parties in enforcement proceedings and to other entities stipulated by law.

In addition to the above-mentioned third parties who keep records of the debtor's property, the debtor is also obliged to provide co-operation to the executor, in the form of a declaration of the debtor's assets. The executor invites the debtor to make a declaration of his/her assets, if this is necessary to terminate the enforcement and proportionate to the claim being enforced. As a rule, the debtor is invited to declare the assets in the event that he/she is unable to terminate the enforcement after the Enforcement Orders was issued, according to the identified assets.

The form of this summons is determined by the executor, in the form of a summons to come in person at the executor's office and file the statement orally into the deed or the summons delivered to the debtor's own hands to file the declaration in a written form within a deadline. In the summons, the executor will draw attention to the criminal consequences of providing false information (criminal offense of obstruction of enforcement proceedings under Sec. 243a of the Criminal Code), as well as to the legal consequences of refusing to provide a property declaration, meaning the possibility of calling the debtor and imposing a disciplinary fine.

In addition to **the list of assets**<sup>11</sup>, data to which the executor does not typically have access, and which is difficult to ascertain, is also subject of the declaration, namely:

- a) a list of movable assets owned or co-owned by the debtor, including cash, with a description and an indication of the estimated price (value);

---

<sup>10</sup> Sec. 30 par. 1 and 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>11</sup> The list of assets under Sec. 30 par. 1 and 2 of the Enforcement Code includes namely:

- data on the debtor's wage payer or a payer of other income, representing the wage, data on the amount of wage or other income;
- list of bank accounts;
- list of debtor's receivables against third parties, enforceable title of receivables, their value;
- list of securities;
- list of shares in companies and associations, or if the debtor runs his/her own business;
- data on other possessions;
- list of immovable property;
- addresses of immovable property, where the debtor's movable assets could be possibly found;
- list of movable assets.

- b) data on property values to which the debtor's right does not result from official registers or documents or to which another person has the right from official registers or documents;
- c) a list of gratuitous legal acts of the debtor performed in the last three years, with the exception of usual gifts of negligible value;
- d) a list of legal acts of the debtor in the last three years performed with persons under Sec. 42a par. 3 and 4 of the Civil Code.

## PART II: ORGANIZATION OF ENFORCEMENT

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

The judicial officer is, under Sec. 2 of the Enforcement Code, a state-appointed and **authorized person for the enforcement** of judicial and other decisions. The judicial officer carries out his/her duties as a private (self-employed) enforcement agent. He/she must perform the enforcement activity impartially and independently and he/she is, in the performance of his/her activities, bound only by the Constitution of the Slovak Republic, laws and other generally binding legal provisions issued for their enforcement, as well as by court decisions issued in enforcement proceedings. The role of the judicial officers is to execute the enforceable title and to monitor the enforcement until the end. At the same time, the law defines more clearly when a judicial officer performs an activity that can be considered a **delegated exercise of power**. Sec. 5 par. 2 of the Enforcement Code stipulates that the performance of enforcement activity is an exercise of public authority. This is incompatible with an employment relationship or a similar employment relationship, business, membership in the statutory bodies of a company or a cooperative, or with membership in the supervisory body of a company or a cooperative, or with the performance of another earning activity. Exceptions include scientific, pedagogical, literary, artistic and journalistic activities. The purpose of this amendment is to avoid any conflict of interest that may arise.

Under Sec. 3 par. 1 and 2 of Act No. 222/2004 Coll. on value added tax, the executor is a **taxable person**, because he/she independently performs an economic activity from which income is obtained and performs it as a **free profession according to special legislation**.<sup>12</sup>

In addition to the procedure for recovery of receivables in the Enforcement Code, the rules of ethical conduct and other details concerning the executor's activities are regulated in the Code of Ethics of the Judicial Officer based on the executor's position and powers. This Code was adopted by the Conference of Judicial Officers.

Judicial officers under Sec. 9 of the Enforcement Code **are appointed and removed by the Minister of Justice of the Slovak Republic**. It is possible to appoint only a citizen of the Slovak Republic who is competent to perform legal acts, has obtained a university degree at the Faculty of Law of a University in the Slovak Republic, or has a recognized university diploma in law, issued by a foreign school, is irreproachable,

<sup>12</sup> MAZÁK, J. JUDr. 2017. *The Enforcement Code: Commentary*, p. 26.



passed a professional exam and has at least five years of legal practice, of which at least three years of enforcement experience, a disciplinary measure depriving him/her of the performance of the executor's function has not been imposed on him/her and has successfully completed the selection procedure. The executor may carry out the enforcement activity and other activities only if he/she has taken the given vow and concluded a contract on liability insurance for damage that could arise in connection with the performance of this activity.

The executor is disciplinary responsible for **disciplinary misconduct**, meaning he/she is liable for culpable breach of duties in the performance of the executor's activities or other duties under the Enforcement Code, breach of vow, conduct which violates the dignity of his/her function, and continuation of performance of activities incompatible with the function of the executor, despite a previous notice. Disciplinary misconduct also includes proceedings by which the executor is to cause delays in enforcement proceedings or in disciplinary proceedings. If, in view of the nature of the breach, the manner of conduct, the degree of culpability, its repetition or other aggravating circumstances, the harmfulness of such conduct increases, it is a serious disciplinary offence.

It is possible to take the following **disciplinary measures** for a disciplinary offence:

- a) a reprimand;
- b) a reprimand in written form;
- c) a fine up to the amount of EUR 330.

It is possible to take the following disciplinary measures for a serious disciplinary offence:

- a) a reprimand in written form;
- b) a fine up to the amount of EUR 3 310;
- c) a removal from the post as enforcement agent.<sup>13</sup>

## II.2 Supervision over enforcement

The activities of executors are supervised primarily by the **Slovak Chamber of Executors**, which is a self-governing professional organization and which unites all judicial officers.

The state supervision over the activities of the Chamber and the activities of executors is performed by the **Ministry of Justice of the Slovak Republic**, by monitoring compliance with the legality of executors' procedures in specific matters, regular and purposeful inspections of executors' offices and enforcement files and evaluation of Chamber reports on its activities and activities of executors.

The control of the enforcement activity may be performed at the initiative of the court, on the basis of complaints of natural persons and legal entities or at the initiative of the President of the Chamber and other bodies of the Chamber or public

---

<sup>13</sup> Sec. 221 par. 1 and 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

authorities.<sup>14</sup> Complaint against the Chamber is dealt with by the Ministry. Complaint against judicial officers is dealt with by the Chamber.

The control of enforcement activities is performed by the **control commission**, which consists of three executors authorized by the presidium of the Chamber and one representative of the Ministry.

The role of the control commission is to verify the discipline of a judicial officer in compliance with generally binding provisions and in exercising the funds of the parties in proceedings, which a judicial officer has at his/her disposal. The administration of the received funds and meeting of the previously imposed measures to correct the identified deficiencies is also subject of the inspection. In the event that the commission receives a suspicion of committing a disciplinary offense by the executor, the chairman of the control commission may, after a previous opinion of the presidium, lodge a petition for disciplinary prosecution of the executor.<sup>15</sup>

### II.3 Access to the premises

If required by the purpose of the enforcement, the executor is entitled to make a **personal inspection of the debtor** and an **inspection of the debtor's apartment** and other places where the debtor has his/her property; for this purpose, he/she is entitled to obtain access to the debtor's apartment or to another place of the debtor. A person who is not involved in the proceedings must participate in this act and a personal search can always be performed only by a person of the same sex. This is provided by Sec. 119 of the Enforcement Code, which significantly and appreciably interferes with the fundamental rights and freedoms acknowledged by the Constitution of the Slovak Republic.

According to Sec. 120 of the Enforcement Code, the debtor shall allow the executor access to all places where he/she has placed his/her movable assets. The executor will request the assistance of a suitable person to carry out the listing of these items, if possible, a representative of the municipality.

The precondition for the listing of items is the delivery of the Notice of enforcement commencement to the debtor, the invitation to meet the obligation voluntarily and the admission of a suitable non-participating person. In the event that the debtor does not allow access to these places voluntarily, the executor will enforce access and for this purpose the **body of the Police Force of the Slovak Republic is obliged to provide co-operation and protection**. This obligation also follows Sec. 73 et seq. of Act No. 171/1993 Coll. on the Police Force.

**Enforcement of access to the debtor's apartment** and other places is a set of factual actions. In addition to the police force, a person who is technically able to overcome the obstacle to entry, usually a locksmith, is also involved. The damage caused by this entry is borne by the debtor. The debtor bears this damage on his/her own or must

---

<sup>14</sup> Sec. 218d the first sentence of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>15</sup> Mázák, p. 560a.

compensate it to a third party. The debtor also pays the costs associated with this entry.<sup>16</sup>

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

Protection to persons authorized to enforce a decision of a court or other public authority is provided by the Police Force, if these persons are unable to enforce the decision due to danger to life or health and if they request this protection in writing.<sup>17</sup> These persons also include the judicial officer.

For the sake of protection of a judicial officer as well as achieving the purpose of enforcement, **the executor has the status of a public official in connection with the performance of enforceable activities.** The law also emphasizes that the enforceable activity is the exercise of public power. He/she has increased protection against possible attacks or other inappropriate behaviour (e.g., threats) by the debtors through the Criminal Code, when the debtor could, through his/her actions; commit the crime of assaulting a public authority<sup>18</sup> or assaulting a public official.<sup>19</sup>

If the debtor does not provide the executor with the co-operation required by the Enforcement Code and this deficiency prevents the termination of the enforcement and the executor has instructed them on the possibility of issuing a summons or imposing a disciplinary fine, the executor may request the Police Force to summon them to the executor. Summoning costs are paid by the debtor. The same procedure applies if the debtor does not provide the executor with the required declaration of assets. In addition to the possibility of summoning the debtor, the executor may request the court to impose a disciplinary fine on him/her.

The purpose of the institution of summons is to ensure the presence of the debtor in order to **provide information primarily on the debtor's past assets, or to clarify discrepancies in the executor's findings.**<sup>20</sup>

#### II.5 Time of enforcement

The acts of a judicial officer are usually performed **during working days, during office hours chosen by the judicial officer.** However, the executor is obliged to ensure that the executor's office is publicly accessible every working day for at least five hours, always between 1 pm and 3 pm, and at least one working day also between 3 pm and 4 pm. The judicial officer publishes office hours and their changes on his/her official notice board and also notifies the Chamber, which publishes them on its website.

During office hours, the **executor is obliged to ensure that a person is present in the his/her office** and that this person is authorized to draft oral submissions and accept items or money deposited by parties in proceedings into safekeeping or for the purpose of meeting the obligation. Likewise, every working day of the week during

<sup>16</sup> Mazák, p. 374.

<sup>17</sup> Sec. 73 et seq. of Act No. 171/1993 Coll. on the Police Force.

<sup>18</sup> Sec. 321 et seq. of Act No. 300/2005 Coll. Criminal Code.

<sup>19</sup> Sec. 323 et seq. of Act No. 300/2005 Coll. Criminal Code.

<sup>20</sup> Mazák, p. 374.

standard office hours, the applications office must be open to the public, serving for the personal service of the parties' document.

The setting of office hours therefore serves, in particular, the parties in proceedings, so that during those hours it is possible to communicate with the executor, inspect the file and perform one's duty in person. However, the executor is not limited by office hours or specific days to perform individual acts within the various methods of enforcement.

## II.6 Mediation

According to 420/2004 Coll. on Mediation, a mediator can be any natural person registered in the register of mediators. The persons involved in the mediation agree on this person and the latter concludes an agreement with them on the commencement of mediation under Sec. 14 par. 1 of Act on mediation. The mediator performs his/her activity on the basis of a certificate issued by the Ministry.

The **executor does not perform this activity**; moreover, this activity is incompatible with the performance of executor's function.

## PART III: ENFORCEMENT PROCEDURES

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

Enforcement proceedings commence with **lodging of a petition**. They are therefore initiated in response to a petition of the party that is entitled to request payment of the claim from the enforceable title because the **debtor does not voluntarily comply with the enforceable decision**.<sup>21</sup>

The petition for enforcement is no longer addressed to a specific enforcement agent chosen by the creditor as a creditor, as was the case in the past, but is delivered to the electronic mailbox of the causally competent court, which is the **District Court of Banská Bystrica for the whole territory of the Slovak Republic**.<sup>22</sup>

The petition for enforcement is **lodged by electronic means** to the electronic mailbox of this court through an electronic form, which is published on the website of the Ministry of Justice of the Slovak Republic.

The law therefore requires that the creditor or his/her representative has an electronic mailbox set up in accordance with the e-Government Act (see chapter I.3), both for the purpose of lodging a petition, as well as for the purpose of delivering documents that a judicial officer delivers to the creditor exclusively electronically until the enforcement. If the creditor does not have an electronic mailbox, or if he/she does not have the technical capacity to lodge the petition electronically, a petition for enforcement may be lodged through any enforcement agent. In this case, the judicial officer is the representative authorized to deliver the documents until the commencement of enforcement. The judicial officer must be remunerated and

<sup>21</sup> Sec. 48 par. 1 and 2 the first sentence of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>22</sup> Mazák, p. 153.



reimbursed of expenses for his/her activity related to the lodging of a petition for enforcement through the judicial officer.

The request for enforcement must be accompanied by **a copy of the enforceable title together with a certificate of enforceability**, if required. An exception is a notarial deed if the debtor agrees to enforceability in it. Enforceability is marked on the enforceable title by the court that ruled on the case as a court of first instance, or another body provided for by law, but it is usually the authority that issued the enforceable title. In case of the vast majority of enforceable titles (court decisions), the court itself, after the validity of the decision, sends the decision with a marked clause of validity and enforceability. In other cases, the entitled party must ask the authority to mark it. If the enforceable title is a decision of an institution, body, office or agency of the European Union, the enforceability is characterised by the Ministry of Foreign and European Affairs of the Slovak Republic. In case of an enforceable title from another country that is enforceable in the Slovak Republic, the enforceability is characterised by the authority of the foreign state where the enforceable title was issued.

In addition to the enforceable title, the application shall be accompanied by a document proving legal succession. This is a document from which it is clear that a requirement or reciprocal obligation has been met if it resulted from the enforceable title, or a consumer contract and all other contractual documents related to the consumer contract in the case of enforcement on the basis of an enforceable title granting a claim from a consumer contract.

In the application for enforcement, **the creditor shall state in particular the designation of the court to which it is addressed, the designation of the parties in proceedings, the enforceable title, the designation of the creditor's representative, the designation of the recovered claim, the account authorized to remit the recovered funds and other particulars** under Sec. 48 par. 3 of the Enforcement Code.

The petition for enforcement does not contain an indication of the debtor's property; **its determination is the task of the judicial officer**. However, nothing prevents the creditor from contacting the judicial officer after receiving the Notice of the commencement of enforcement and stating the property or other circumstances important for the recovery of the claim from the debtor.

The enforceable title and public instruments are attached to the enforcement application as an original electronic document that is authorized (e.g., if the court delivered the decision to an electronic mailbox) or as an electronic document created by a guaranteed conversion of the original document in paper form (if the creditor has a copy of an enforceable title in paper form).

**The enforcement proceedings begin on the day when the petition for enforcement was delivered to the court.**

**The court will review the petition** for enforcement and its annexes. Unless there are grounds for rejecting the petition, the court issues an authorization to perform the enforcement within 15 days from the delivery of the petition and notifies the creditor

thereof. Enforcement will be carried out by a judicial officer, who will be allocated by the court. The court allocates cases evenly to individual judicial officers by random selection using technical means and software means approved by the Ministry. This prevents the possibility of influencing the allocation of cases. The cases are not allocated by random selection to a judicial officer whose post of a judicial officer has been postponed, suspended, terminated or to whom a deputy has been appointed.

The court shall send the issued power of attorney to the entitled enforcement agent together with a copy of the petition for enforcement or together with the data from the petition for enforcement. The delivery of the enforceable authorization to the judicial officer starts the enforcement. When carrying out enforcement, the judicial officer shall proceed in the order in which the enforceable authorizations were delivered to them; enforcements to recover maintenance are settled preferentially.

Enforcement may be terminated on the basis of a court decision, a decision of a judicial officer or by law. Termination by a decision of a judicial officer is based on facts limited by law, which can be considered undisputed. Depending on the reason for the suspension of the enforcement, the judicial officer issues either a Notice of suspension of the enforcement or a Notice of termination of the enforcement. The judicial officer issues the Notice of suspension of the enforcement in cases where the satisfaction/recovery of the entire claim has not been satisfied and one of the exhaustive reasons to discontinue the enforcement is satisfied.<sup>23</sup> One of these reasons is also the case when the cessation of the enforcement is issued by the creditor.

**The judicial officer issues a Notice of termination of the enforcement** if the debtor has satisfied the enforced claim, including the costs of enforcement, or the judicial officer has recovered the enforced claim, including the costs of enforcement. The enforcement is terminated with the delivery of a notice to the court.

If the enforcement has been terminated, the judicial officer discontinues all acts he/she has taken in order to attach the property as a subject to enforcement, within three working days, and notifies immediately the persons or authorities concerned thereof.<sup>24</sup>

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

The commencement of the enforcement against movable assets presupposes the notification of both the creditor and the debtor. The notification contains a **prohibition imposed on the debtor, i.e., to use his/her possession** (movable assets), listed by a judicial officer. Violation of such prohibition may give rise to criminal liability, as the debtor, by alienating or damaging assets may meet the factual nature of the criminal offense of infringing the rights of the creditor (Sec. 256 of the Criminal

---

<sup>23</sup> Mazák, p. 234i.

<sup>24</sup> Sec. 61p of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

Code). Although in principle the method of enforcement is determined by the judicial officer, under Sec. 116 par. 1 of the Enforcement Code may also be carried out by creditor's petition with an explicit determination of the items to be sold. Therefore, if the creditor is aware that the debtor has a movable asset located outside his/her apartment, he/she states where such asset is.

The judicial officer shall serve the Notice of enforcement commencement against movable assets, to the debtor only **during the enforcement** of the (inventory) being subject to the enforcement. If the debtor is not present at the list making, he/she is notified of the commencement of the enforcement together with a notification that the listing has been performed and which items have been listed. Notification that the listing has been performed and which items have been listed shall also be delivered to the creditor and the debtor's spouse.<sup>25</sup>

**The listing of assets** within the enforcement against movable assets is one of the most important acts of the judicial officer and has several procedural effects. The judicial officer may entrust the debtor or his/her employees with the listing of movable assets on the basis of a written authorization. This could be probably performed in simple cases within the enforcement proceedings. As the listing presupposes the delivery of a notice to the debtor on the spot, his/her objections do not have suspensive effect. The prohibition to use the listed items begins to take effect immediately for the debtor.

The purpose of listing of the movable assets is not only to attach the debtor's possessions in favour of the recovered receivable, or to physically examine the state of the debtor's movable assets, but mainly under Sec. 117 note b) of the Enforcement Code to prohibit the debtor to use the listed assets arbitrarily. The prohibition from the use of listed movable assets by a judicial officer means the debtor is prohibited namely from to dispose, alienate, rent, damage them, etc. By violating this prohibition, the debtor is exposed to the risk of conducting the criminal offense of obstructing enforcement proceedings. To attach movable assets, a judicial officer marks them with a seal/stamp or keeps them in premises marked by them, at the expense of the debtor.

Consequently, a **judicial officer lists the items that could be sold**, to such extent that the proceeds of the sale of the listed items are sufficient to satisfy the enforced claim. A judicial officer will firstly list the items that the debtor does not need and which are the easiest to sell. A judicial officer will request the assistance of a suitable person to carry out the listing, if possible, a representative of the municipality. The listing could be supplemented by other items if the proceeds of the sale of the listed items are not sufficient to satisfy the receivable of a creditor. The listing of assets is performed only when a debtor, despite the request of a judicial officer, does not voluntarily meet his/her obligation, which of course applies only if the debtor is present during the listing. Therefore, if a debtor voluntarily meets the enforced claim during the listing of movable assets, a judicial officer discontinues the listing.

---

<sup>25</sup> 118 par. 1 and 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

In the past, the listing was estimated after obtaining an expert testimony by requesting the assistance **of an expert witness**, while it was possible for the judicial officer to make the estimation in simple cases. However, since 2017, the method of determining the value of listed items changed significantly. The price/value of listed items will be estimated by a judicial officer with professional care, and this value must be notified to a creditor and a debtor. If a creditor or a debtor claims that the estimation is incorrect, a judicial officer will uphold their objection only if an expert witness attaches an expert testimony to the objection. This does not apply to perishable items.

After such attaching of items, their monetization takes place at an **auction**. The law does not allow any other method and therefore any other procedure of selling assets is inadmissible and excluded. Auctioning is therefore the only permitted way of selling items that are subject to enforcement. An auction itself consists of several procedural acts and measures of a judicial officer. The precondition of an auction is mainly the issuance of the Enforcement Order, the estimation of the movable assets, the determination of the place of auction and the announcement of the date of auction. The judicial officer announces the date of the auction to the debtor, creditor and co-owner of the item. The date of the auction, the listing of items and the place of the auction will be published by the judicial officer on the official notice board of his/her office. At the same time, the judicial officer notifies the municipality in which the auction will take place, which will also publish it on its official notice board. The judicial officer may also announce the date of the auction, the list of auctioned items and the place of the auction in the press with nationwide coverage.

The entire procedural act on the auction is drafted in a deed containing the course of the auction from the beginning to its end. The auction must be carried out exclusively by a judicial officer, who may not buy auctioned items, similarly as his/her employees and the debtor. The lowest bid is equal to the estimated price. The judicial officer will give a hit to the auctioneer who will make the highest bid; in case of equal bids, he/she will decide the draw. The auctioneer must pay the highest bid immediately; if he/she does not, the item will be auctioned again, but without his/her participation.

**A bidder becomes a successful bidder by hitting the auctioneer's hammer.** Imperfections linked to the item cease to exist when the ownership is transferred to the successful bidder. If even the lowest bid has not been made in an auction of items, the judicial officer will order a re-auction. The provisions for the first auction shall apply to a re-auction, with the lowest bid being two-thirds of the estimated price. If no buyer is found during a re-auction and a creditor is not interested in the item for half of the estimated price and a debtor does not respond to a judicial officer's invitation to take over the asset, the judicial officer will sell the movable assets for the highest offered price. The sale thus made has the same legal effects as an auction sale.

An amount exceeding EUR 165, which can be found with a debtor when performing the listing of items, is used as proceeds from the sale. Passbooks are listed as other assets. The judicial officer forwards them to the bank together with an Enforcement Order, which is sufficient to collect the amount necessary to satisfy the receivable of a creditor and its incidentals.



**The proceeds from the auction shall be paid directly to the creditor after deduction of the costs of the sale.** If the proceeds exceed the receivable for which the enforcement is sought, the remainder of the proceeds will be paid to the debtor.

If enforcement is carried out against movable assets for several receivables, the judicial officer will pay the proceeds of the sale after deducting the costs of the sale and the costs of enforcement to the creditor. The order in which the judicial officer carries out the payment of individual receivables is estimated by the day when he/she received an issue to carry out enforcement for individual receivables. If several receivables have the same order and the proceeds of the sale are not sufficient to satisfy them fully, these receivables will be satisfied proportionately. Regardless of the order, certain claims will be satisfied by priority, in cases that this is stipulated by specific legal provisions.

If the judicial officer sells at an auction items that have already been listed by another enforcement agent and the enforcement proceedings with this enforcement agent have not been completed, he/she firstly pays the receivable and costs of enforcement recovered by the sale of these items to this enforcement agent. The rest of the proceeds from the sale of the assets will be paid as in the previous paragraph.

A certain specificity of the new wording of Sec. 125 par. 2 of the Enforcement Code is that if the judicial officer who listed the movable assets did not conduct an auction within six months from their listing, although he/she could have done so, another enforcement agent may auction the items listed by him/her without his/her consent. By the transfer of ownership to a successful bidder, imperfections attached to the property disappear; however, the provisions of the Civil Code concerning liens shall not be affected.

**As well as enforcement against movable assets, enforcement against securities can also be performed.** The precondition for their enforcement is not only their listing, but also their withdrawal and pricing. The Enforcement Code, in its provisions, strictly ensures that the stipulated legal acts are observed in the enforcement. It is an institution, that an enforcement court supervises specific enforcement acts even more intensively so as not to cause damage to the rights of liable persons. It is also necessary to mention enforcement of securities that are not admitted to the market of listed securities, or to the stock exchange. The provisions on enforcement against movable assets shall apply where the nature of the security allows. The lowest submission is the value of the security determined by an expert testimony. If the nature of the security does not allow it, a judicial officer invites the person who is to perform on the basis of the security to forward the performance to its due date within a period specified by them, which may not be longer than fifteen days after the due date.

If it is not possible to sell the items at an auction, at a re-auction, by creditors' taking over for half the price or for the highest offered price, a judicial officer will issue a notice of termination of the enforcement against movable assets.

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



**The bank provides information on the account numbers of a debtor, their balances and their changes, information on the keeping of securities and passbooks** under Sec. 42 par. 6 of the Enforcement Code. The Slovak Chamber of Judicial Officers has concluded an agreement on electronic communication with an association of banks - the Slovak Banking Association. This is done in an automated manner. The agreement significantly contributed to increasing the economy of the procedure and streamlining the administrative apparatus of the banks. **Therefore, a judicial officer has the ability to electronically ascertain the balance of a debtor's accounts** in all banks, their changes and other information. Data on account balances are provided to a judicial officer for the day preceding the day of co-operation.

Attachment on the bank account of the debtor, under Sec. 94 et seq. of the Enforcement Code, shall be executed by **debiting it from the account** up to the amount of the assigned receivable and its incidentals. The provisions on ordering attachment on the bank account of the debtor may also be applied in the case of making a deposit into a deposit account. The attachment on the bank account means a receivable of a debtor towards a bank, arising from a current account agreement or from a deposit account agreement under Sec. 708 - 716 of the Civil Code.

In this sense, a bank is not only the bank itself, but also a natural or legal person with a banking license. The legal system speaks of the owners of the deposit, when in fact it is not about ownership. Money is a substitutable asset and therefore the balance on a bank account or deposit account does not belong to the account holder. This balance only represents the right of the person, for whom the account is maintained, to pay the amount of active balance. Thus, only this claim is enforceable and it is subject of attachment on the bank account of the debtor.

Under Sec. 95 par. 1 of the Enforcement Code the judicial officer, entrusted with the enforcement, firstly orders the bank, which keeps the debtor's account, to block the sum of money in the amount of the receivable and its incidentals on the debtor's account, when receiving the Notice of enforcement commencement ordering the attachment on the bank account. Secondly, the judicial officer notifies the creditor and the debtor of the attachment on the bank account and prohibits the debtor from using the funds in the account up to the amount of the enforceable receivable and its incidentals after receiving the Notice of commencement of attachment on the bank account of the debtor. The debtor loses the right to payment of funds on the account up to the amount of the enforceable receivable and its incidentals on the day of delivery of the Notice of commencement of attachment. The Notice is delivered to the bank by means of electronic communication. In the Notice, the judicial officer shall indicate the account to which the debtor may pay the receivable of the creditor, its incidentals and the costs of enforcement.

The judicial officer will then issue an Enforcement Order within 15 days after the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition. An Enforcement Order is delivered to the creditor, the debtor and the bank. The bank is obliged to pay the receivable and its incidentals to the judicial officer after the delivery of the Enforcement Order. An order for commencement of enforcement and an



Enforcement Order also apply to the amounts that reach a debtor's accounts after an Enforcement Order has been delivered to a bank.

For several creditors, it is necessary to determine the order of the recovered receivables. The decisive factor is the day on which the bank received an order for commencement of enforcement. It is necessary to distinguish that receivables recovered by Enforcement Orders are not only receivables recovered by a judicial officer. This also includes receivables recovered by Enforcement Orders of the relevant tax authorities, enforcements ordered by state administration bodies.

**Attachment on a bank account also has certain limitations.** For example, the restriction may affect wages intended for the payment of employees, while the debit itself is limited to the amount of EUR 165. If a debtor has more than one account, the amount of EUR 165 is not subject to enforcement on only one of them. Funds intended for the payment of employees' salaries are not subject to enforcement only if several preconditions contained in a debtor's declaration are met. These include an indication of the number of debtor's employees, the sum of the amounts attributable to the salaries of those employees, the determination of the nearest pay period after the delivery of a commencement of enforcement.

However, during this method of enforcement, there is often a situation where a debtor has a **salary or other income sent to the account that has been blocked**. The purpose of Sec. 104 par. 2 of the Enforcement Code is to preserve the debtor with a basic amount which is not subject to enforcement under the provisions of enforcement by deductions from wages and other income. Therefore, funds up to the amount which, according to the law, may not be deducted from the monthly salary or other income from the moment the fact was notified to the bank are not subject to enforcement by debiting from a bank account. The debtor shall announce this amount at the request of the bank. If the judicial officer does not agree with the amount stated by the debtor, the amount determined by the judicial officer is decisive for the bank. In practice, the above is implemented by the bank which issues a form to the debtor, in which the latter fills in which part of his/her salary is unattainable by law and this form is also confirmed by the judicial officer. In accordance with this form, the bank will then regularly release uncollectible funds to the debtor.

If the bank does not proceed as it should in accordance with the legal provisions on attachment on the bank account, the creditor **may demand before the bank's general court that the bank pays him/her the amount to which he/she would be entitled if the bank had proceeded correctly**, even if there are no longer enough funds in the debtor's account.

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

A judicial officer obtains information on passbooks in the same way as data on bank accounts, i.e., by electronic **cooperation provided by banks**.

However, enforcement against savings deposits (passbooks) is different from attachment on the bank account of the debtor. Under Sec. 130 par. 1 of the

Enforcement Code, passbooks or other documents that need to be submitted for exercising rights are referred to as other assets.

The judicial officer **forwards the passbook to the bank and collects from it the amount to which the debtor is entitled.** The bank will pay out the deposit, even if this payment is tied. In the case of other documents which must be presented for the exercise of the right, such as lottery tickets, the judicial officer shall call the person, who is to pay according to this kind of a document, to transfer the amount, to which the creditor is entitled, to a judicial officer. During this process the provisions on attachment on the bank account shall be carried out in an appropriate manner; however, the acts necessary for the exercise of the right shall be performed by a judicial officer instead of a debtor.

The amount received shall be treated as the proceeds of the sale of movable assets referred to in Chapter III.2.

### III.5 Enforcement on immovable property

Prior to the actual enforcement on immovable property, it is possible for the immovable property registered in the Land Register under Sec. 167 et seq. of the Enforcement Code to establish **an enforceable lien by registration in the Land Register**, upon petition of the entitled party. The judicial officer will usually ask the creditor to deliver this petition immediately after finding that the debtor owns property. The Notice of enforcement commencement by establishing an enforceable lien and an Enforcement Order are delivered not only to the creditor and the debtor but also to the Land Register Office. The office is obliged to register the establishment of an enforceable lien in the relevant title deed on the day of delivery of the Enforcement Order. The time of registration in the Land Register according to special legislation is decisive for the order of the lien. For the order of several enforceable liens, established by a judicial officer for individual receivables, the time when the judicial officer received the petition to establish an enforceable lien is decisive. This institution serves to attach a debtor's property, while in practice it is used more often than enforcement on immovable property itself. The establishment of an enforceable lien on the immovable property often motivates a debtor to pay the enforced claim.

Therefore, if the attachment of the immovable property has not led to voluntary payment by a debtor, it is possible **to carry out enforcement on immovable property.** Before the judicial officer notifies the creditor and the debtor about the commencement of enforcement on immovable property, it must be proved that the immovable property is owned by the debtor. The judicial officer usually finds out this fact by browsing in the Slovak Land Register portal hosted by the Geodesy, Cartography and the Cadastre Authority of the Slovak Republic. Before issuing a notice, the **creditor must also give consent** to enforcement by selling a specific property.

Enforcement on immovable property applies to all its parts and all incidentals. The subject of the auction is also the question of examining the extent of the co-ownership share. However, under Sec. 166 par. 2 of the Enforcement Code, a co-owner of an asset that is in divided co-ownership may prevent its sale by depositing the amount of





the share to be auctioned to the judicial officer, at the latest by the start of the auction in cash or by check on his/her account.

Thus, the judicial officer notifies the creditor and the debtor about the commencement of enforcement on immovable property and marks the immovable property, which is concerned. The judicial officer will ask the creditor to consent to the sale of the immovable property, will prohibit the debtor from transferring the property to someone else or encumbering it and will impose from the day of the delivery of the Notice of the commencement of enforcement to inform the judicial officer whether and who has a pre-emption right on the immovable property, with the instruction that in case of non-notification he/she is liable for the damage caused thereby. The Notice of the commencement of enforcement is also delivered to co-owners and persons who have a pre-emptive or other tenure right on the property, to the association of apartment owners and non-residential premises or to the administrator of the apartment building, to the district office, tax office, government auditing office and municipality where the immovable property is located, as well as to the district office in whose district the a debtor is domiciled and will be posted on the official board of the judicial officer until the auction decree is posted.

After the deadline expiry for lodging a petition to discontinue enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, a judicial officer shall issue an Enforcement Order. He/she delivers this to the same entities as the Notice of the commencement of enforcement.

After issuing an Enforcement Order, the judicial officer must **first proceed to determine the value of the immovable property, obtaining an expert testimony for this purpose**. For the purposes of enforcement, under Sec. 139 par. 1 of the Enforcement Code, he/she determines the general value of the property, with an estimate of imperfections. For the purposes of enforcement on immovable property, the general value of the immovable property is determined in accordance with special legislation, without taking into account imperfections that an auctioneer will include in the highest bid. The debtor shall allow the judicial officer or his/her employee and an expert witness to access the valued immovable property. For the purposes of the expert testimony, the judicial officer is entitled to obtain access to the valued immovable property. The documents for the expert testimony shall be provided by the judicial officer and at the same time he/she shall make a list of imperfections with a determination, which are included in the highest bid and which are not included in the highest bid. The judicial officer may, with the consent of a creditor, obtain a new expert testimony if he/she has not been able to sell the property within a period of more than one year from the first auction, even after reducing the price with the consent of the court.

**Enforcement will be carried out by an auction** conducted by the judicial officer. The place and time of the auction will be determined by the judicial officer after

determining the lowest bid under Sec. 142 par. 2 of the Enforcement Code<sup>26</sup>. The date of the auction shall be determined no earlier than the thirtieth day from the last day of the period determined by special legislation for the publication of data in the Commercial Journal. The judicial officer is obliged to post the auction notice on his/her official notice board and request the municipality in whose district the property is located to publish the essential content of the order in the manner they are used to. He/she may publish an auction notice in the press and may also request the cadastral authority to publish the notice on its official notice board, for reasons of transparency. At the same time, he/she should send an auction notice to the Ministry without undue delay for publication in the Commercial Journal.

Those interested in buying the auctioned immovable property are obliged to **remit an auction security equal to the value of half of the lowest bid**. This must be completed at the latest before the beginning of the auction. A candidate who has the pre-emption right must prove his/her advantageous position over the others at the latest when remitting the security equal. After identifying the total number of candidates who have remitted security equal, the judicial officer invites them to bid. Following the call, it is no longer possible to remit an auction security equal and request to participate in the auction. The judicial officer attributes the ownership right of the subject of auction to the person who meets the conditions stipulated by law and who made the highest bid. The judicial officer will draft this in a deed.

By hitting the auctioneer's hammer, the property will go to the **bidder who paid the highest bid at the auction** and at this moment the bidder becomes a successful bidder. The hitting of the auctioneer's hammer then presupposes the consent of the enforcement court. Under Sec. 150 par. 1 of the Enforcement Code, the successful bidder may take possession of a lot and if he/she pays the highest bid and the court has approved it, he/she becomes the owner of the property on the day when the actual hitting of the auctioneer's hammer took place. The deadline for the payment of the highest bid shall be specified in the auction notice, which shall begin on the day of the hitting of the auctioneer's hammer and may not exceed two months. If even the lowest bid has not been made at an auction, a judicial officer may resume it at the earliest one month after the unsuccessful auction. In such case, the lowest bid may, with the consent of a court, be lower than the price determined by an expert testimony, but not higher than half of the lowest bid thus determined. The change of the original wording of Sec. 145 of the Enforcement Code occurred after some property became unmarketable. Under previous legislation, the court could have given its consent to a reduction in the price of immovable property by only one third. The enforcement court is obliged to rule on the approval of the hitting of the auctioneer's hammer within 30 days from the delivery of the application for this approval. The court will deliver a valid decision on the matter to the locally competent district office for the entry into the Land Register together with the notarial deed from the successful bidding.

---

<sup>26</sup> The lowest bid equals the general value determined by expert testimony, reduced by imperfections that an auctioneer will include in the highest bid, and increased by the value of rights related to the property, that an auctioneer will include in the highest bid.

It cannot be forgotten that an unsuccessful auction, under Sec. 145 of the Enforcement Code, differs from a **re-auction** with regard to the reasons for its repetition. Under Sec. 143 par. 1 of the Enforcement Code, the judicial officer will re-auction if the successful bidder does not pay the highest bid within the set two-month period. The sanction for the successful bidder is the obligation to pay the difference from the highest bid as well as the costs of re-auction or compensation for damage, if any occurred.

When the court approves the successful bidding, the judicial officer will hold a schedule hearing. Under Sec. 157 par. 1 of the Enforcement Code, **receivables are in principle satisfied in an exhaustively determined order:**

- a) court costs and enforcement costs;
- b) receivables from mortgage loans and municipal loans used to cover the nominal value of mortgage bonds and municipal bonds issued by a bank, including income from them;
- c) receivables attached by a lien by legal, contractual, judicial or enforceable, attached transfer of rights, assignment of a receivable, or restriction of the transfer of immovable property in its entirety according to the time of the lien, or the occurrence of a restriction of the transfer of immovable property;
- d) receivables of a creditor, taxes, fees, duties and receivables on health insurance premiums, social insurance and receivables on contributions to old-age pension savings;
- e) maintenance arrears due on the day of the schedule;
- f) other receivables of the State;
- g) other receivables.

The judicial officer does not issue a decision on the schedule of the proceeds, but rather drafts it in the deed. Persons and bodies may object to the schedule of the proceeds before the judicial officer. The enforcement court decides on the objections. However, this court also approves the schedule of the proceeds, irrespective of whether any objections have been raised against it. It examines whether the schedule was carried out in accordance with the law.

However, enforcement on immovable property cannot be carried out in every type of enforcement, as the **law does not allow this in the so-called low-value enforcement**, meaning enforcement to recover a receivable which, without the incidentals, on the day of serving the petition for enforcement is not in excess of EUR 2 000. This applies for the immovable property where a debtor has permanent or temporary residence and is without prejudice to the right to place a lien on the immovable property.

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

The enforcement against wages affects a debtor's entitlement to **wages and to monetary benefits similar to wages or salaries**. This is one of the most common

methods of enforcement. Wages are defined as monetary benefits or benefits of monetary value provided by an employer to an employee for work. Salary is monetary benefits provided by an employer to an employee for work. The concept of salary does not include benefits in kind. Benefits provided under special legislation in connection with employment, in particular salary compensation, severance pay, travel allowances, etc., are also not considered as salary.

**Information on payers of wages or other income of the debtor is provided to the judicial officer on the basis of his/her request, by the Social Insurance Agency, through electronic co-operation.** In some cases, especially if the Social Insurance Agency does not register an employer, a payer can be identified by a request for co-operation addressed to one of the health insurance companies.

Enforcement by deductions from the wage of a debtor begins with the delivery of the Notice to the parties in the proceedings. The order for commencement of enforcement is delivered only to the payer. The consequence of the delivery of the order to initiate enforcement to the payer of the wage is that the debtor loses the right to be paid the part of the wage that corresponds to the specified amount of deductions. 11After the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer shall issue the Enforcement Order (order for enforcement against wages), which he/she shall deliver to the creditor, debtor and payer of wages. The payer of the wage is obliged to pay to the judicial officer the amounts deducted from the wage of the debtor, from the day of delivery of the Enforcement Order.

As far as the scope of enforcement is concerned, one of the basic principles of enforcement proceedings applies here, namely enforcement cannot be carried out to a greater extent than up to the amount of the recovered receivable and its incidentals. The base for making deductions from wages is the net wage. The base for the calculation of deductions is the amount which is intended for the debtor or his/her spouse and persons, to whom he/she satisfies his/her legal maintenance obligation. After calculating the net wage, from which the basic amount is deducted according to a provision implemented<sup>27</sup> by government, we get an amount which is called the remainder of the net wage and must be divided by three. This calculation takes into account whether it is a preferential or non-preferential receivable. **Only one third can be deducted to recover the receivable of the creditor, in the case of non-preferential receivable and, under Sec. 71 par. 2 of the Enforcement Code, two thirds are deducted in the case of preferential claim.**

Another rule for making deductions from wages is, in particular, **the principle of priority** if deductions are made for the recovery of several receivables. The second rule concerns deductions from the second third of the remainder of the net wage, which is used exclusively to satisfy preferential receivables. In making these deductions, the principle of precedence applies in addition to the principle of priority. The third rule regulates the procedure for making deductions if a payer receives on

---

<sup>27</sup> Regulation of the Government of the Slovak Republic No. 268/2006 Coll. on the Extent of Payroll Deductions within the Enforcement.

the same day several orders to initiate enforcement for several receivables. In that case, the debts recovered have the same order and, if the amount for their satisfaction is not sufficient, they are satisfied in accordance with the principle of proportionality.

Given the strict principle of the Enforcement Code on the extent of deductions, an enforcement of deductions from wages to a greater extent appears to be truly exceptional. The Enforcement Code allows a deduction from wages to a greater extent only if the debtor agrees. However, the consent of the debtor may only affect the wage contained in the third part. After making deductions to a greater extent, with the consent of the debtor, the judicial officer issues an Enforcement Order, which he/she delivers to the payer of the salary.

**The deducted amount is paid by the payer to the judicial officer**, even if the payer has a pecuniary claim against the creditor, which he/she might otherwise have set off. If deductions cannot be made, the payer is obliged to notify the judicial officer thereof. After such notification, the judicial officer must decide which method of enforcement to consider in the next procedure. The payer's liability results from the fact that the law allows for a lawsuit against them in litigation. The creditor is entitled to file this lawsuit, provided that the payer has breached his/her obligations in carrying out enforcement by deductions from wages. In such case, the proceedings begin with a remedial action - the so-called indebted action - the legal reason of which may be a breach of the obligations arising from the legal provisions applicable to the payer of wages. In addition to the indebted action, an employer also risks a disciplinary fine by failing to meet his/her obligation.

The wage payer has a notification obligation regarding the occurrence and termination of the employee's incapacity for work. The same obligations are laid down in relation to the fact that the employee has taken maternity leave or parental leave, as well as the termination of that leave. These principles are reflected under Sec. 67 par. 4, 5 of the Enforcement Code, according to which, if the employee's temporary incapacity for work lasts more than ten days, the wage payer is obliged to notify the judicial officer who issued the Enforcement Order for enforcement by deductions from the employee's wages. At the same time, he/she will notify the judicial officer which social insurance agency pays the employee's sick pay. In such case, the judicial officer delivers an Enforcement Order to the relevant branch of the social insurance agency. The wage payer is also obliged to immediately notify the judicial officer of the end of incapacity for work. After the end of incapacity for work, deductions from the wage are made by the payer.

**The notification obligation** for the wage payer also applies in a case of change of employer. The wage payer must notify the judicial officer within one week that the debtor has stopped working for them. At the same time, he/she sends the judicial officer a statement of deductions and information on further deductions of the debtor and their order. The person who hires the debtor is obliged to request from them a certificate issued by the person with whom he/she was last employed, as to whether an order for the commencement of enforcement or an Enforcement Order has been issued, by which enforcement agent and for whose benefit. Every employer is obliged to issue such certificate to an employee who has stopped working for them. When



changing a wage payer, the original order for the commencement of enforcement and an Enforcement Order also apply to the wage of the debtor with the new wage payer.

The provisions on enforcement by deductions from wages shall also apply to enforcement by deductions from the remuneration of members of cooperatives and income which compensates a debtor for remuneration for work, in particular remuneration resulting from a work contract, from the compensation of income in case of temporary incapacity for work of an employee, social insurance benefits and from old-age pension savings.<sup>28</sup>

**Enforcement by deductions from the pension of a citizen who is obliged to pay for the care provided in social service facilities** is limited to the amount for payment of this claim and the amount equal to the mandatory balance of a citizen's income after payment of this claim.<sup>29</sup>

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

In addition to the attachment on the bank account of the debtor, the Enforcement Code also distinguishes the attachment under the debtor's debtor. A pecuniary claim other than attachment on the bank account is any receivable of the debtor from another person whose subject is a payment performance. This receivable may become due in the future, or it may be the case that partial receivables will gradually arise for the same legal reason in the future.

The mere finding of another pecuniary claim which the debtor has against a third party is the most difficult task for a judicial officer, as unlike other methods of enforcement, this fact cannot be ascertained from any register or at the request of a specific authority to provide this information to an enforcement on the basis of co-operation (except a court, if the claim is already pending). **Information on the claim is most often provided by a debtor in the declaration of property, but only if he/she is willing to cooperate in the enforcement proceedings.** If the debtor is an entrepreneur, this information can be found in the accounting documents. However, the judicial officer usually obtains this information by deduction after a comprehensive identification of the debtor's property. The identification of the claim includes identification of the specific third party who is the debtor's debtor, as well as the specific legal title from which this person is obliged to perform. If this title is not provided by the debtor, the third party may be invited to cooperate in this case, under Sec. 42 par. 5 of the Enforcement Code, namely for the submission of documents related to the debtor's property.

The judicial officer entrusted with enforcement under Sec. 106 of the Enforcement Code, orders the debtor's debtor not to pay the debtor upon delivery of the Notice of enforcement commencement by ordering a receivable. At the same time, he/she shall notify the creditor and the debtor about the commencement of enforcement by ordering a receivable and after receiving this notice, the debtor is prohibited to use

---

<sup>28</sup> Sec. 89 par. 1 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>29</sup> Mazák, p. 300.

this receivable in any way up to the amount of the recovered claim and its incidentals. Subsequently, the debtor loses the right to the payment of such receivable on the day when the debtor's debtor received the Notice of enforcement commencement.

The precondition for an effective order is not only its delivery to the debtor, but also the exact designation of the affected receivable, which is based on **the identification of the legal reason arising from a specific contractual relationship or other legal fact that may establish a right to payment.**<sup>30</sup>

After the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will issue an Enforcement Order (a petition to enforcement by ordering a receivable).

Payment of the debtor's receivable to his/her debtor presupposes the maturity of this receivable. If the debtor's receivable is not due after delivery of the Enforcement Order, the debtor's debtor pays it to the judicial officer as soon as it becomes due. The payment of the receivable has the same effects as the repayment of the debt. By performance to the judicial officer, the debtor's debtor is released from his/her obligation towards the debtor.

The order of receivables is governed by the day when the debtor's debtor received the Enforcement Order. If on the same day he/she has received the Enforcement Order of several receivables which could not be fully satisfied from the debtor's receivable, the debtor satisfies those receivables relatively.<sup>31</sup>

It is very important to point out in this method of enforcement that under Sec. 109 par. 1 of the Enforcement Code that if the debtor's debtor does not pay the debtor's receivable immediately after the receivable has become due, the creditor has the right to demand in his/her own name from the debtor the direct payment of the receivable. **The creditor thus acquires active procedural legitimacy to lodge an action directly against the debtor's debtor.** The right of action arises on the day following the delivery of the Enforcement Order to the debtor, if no payment has been made, or on the day following its maturity, if it was not yet due at the time of delivery of the Enforcement Order. The reason for non-payment or fault of the third party is not examined, it is sufficient that the existing and due receivable has not been paid.<sup>32</sup>

In a legal dispute, the debtor's debtor cannot object to the receivable that is the subject of enforcement. If the debtor's receivable against his/her debtor is already the subject of a dispute in a court, the parties will have reversed roles by law, where the debtor will be replaced, as a complainant, by the creditor, but only in part of the amount that should have been paid on the basis of the Enforcement Order.

If the debtor's receivable is already recovered in enforcement proceedings, the order is sent to the judicial officer, who recovers the receivable so that he/she does not send

---

<sup>30</sup> Mazák, p. 330.

<sup>31</sup> Sec. 110 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>32</sup> Mazák, p. 333.

the recovered amount to the debtor (who is a creditor in his/her enforcement proceedings), but to the judicial officer who issued the order.

At the same time, the law also stipulates the liability of the creditor in the event of his/her inactivity, which could lead to an obstruction of the payment of the amount and a consequent reduction of the enforced claim. If the creditor does not claim the receivable against the debtor's debtor in time or if he/she does not notify the debtor that he/she is claiming it, he/she is liable to the debtor for any damage that he/she may have incurred thereby. The creditor may also not forgive the receivable that the debtor has against his/her debtor or enter into a settlement with the debtor's debtor that would be to the detriment of the debtor.

### III.8 Enforcement against shares

The Enforcement Code does not specifically provide enforcement against debtor's shares, but these are covered by enforcement against securities in accordance with the provisions on enforcement.

A security under Sec. 2 par. 1 of Act No. 566/2001 Coll. on securities and investment services is a money-valuable record in the form provided by law, which is associated with rights under this Act and rights under other acts, in particular the right to demand certain property performance or exercise certain rights against persons designated by law.

The system of securities consists not only of shares but also of temporary certificates, mutual fund certificates, bonds, deposit slips, treasury bonds, passbooks, coupons, bill or promissory note, checks, travellers' checks, bills of lading, stock slips, stock deposit bonds, goods bail bonds, cooperative share slips, investment certificates, certificates of deposit, certificates pursuant to special legislation or other types of security that are declared as a security by specific legal provisions.

Enforcement against securities is in our conditions rather an exceptional way of enforcement, especially due to administrative complexity, necessary court cooperation, difficulty in obtaining information on securities ownership by debtors, and thus overall lack of economy and inefficiency of this enforcement method. It must also be borne in mind that few debtors own securities that have real value and are that they are unlikely to declare that they own them. Information on holders of securities can be ascertained by co-operation only if a security is entered in a register - the National Central Securities Depository, or this information is registered by a bank. Judicial officers therefore resort to this method of enforcement in principle only in cases where information on the existence of the security and its value is provided to them by a creditor or a debtor in the declaration of property.

**Enforcement against shares is in principle carried out in the same way as enforcement against movable assets.** This results not only from the fact that securities are subject to the Civil Code on Movable Assets, unless special legislation provides otherwise, but also from the Enforcement Code itself, which states that the provisions on enforcement against movable assets shall apply adequately if the nature



of the security allows it. The precondition for their enforcement is not only their listing, but also their withdrawal and valuation.

Thus, the judicial officer will list the securities in accordance with the provisions on the enforcement against movable assets and withdraw them or give an order to suspend the right to exercise securities by the debtor under the act on securities, or perform acts that replace the withdrawal of these securities under special legislation. This alternative procedure depends on the nature and form of the security.<sup>33</sup>

Enforcement of securities admitted to the market of listed securities of the Stock exchange may be initiated by a judicial officer only by **selling them on the Stock exchange through a securities dealer**. If a publicly traded security admitted to the listed securities market of the Stock exchange has not been traded in the last three months, the securities dealer may offer it for a sale at the highest price that can be achieved with due diligence.

The Enforcement Code strictly ensures that the stipulated legal acts are observed in the enforcement. It is an institute where an enforcement court supervises specific enforcement acts even more intensively so as not to cause damage to the rights of debtors. It is also necessary to mention enforcement of securities that are not admitted to the market of listed securities of the Stock exchange.

Upon delivery of the order to initiate enforcement against shares based on the petition of the judicial officer who is entrusted with the enforcement, the court shall decide within 30 days to register the suspension of the debtor's right to exercise the attached security and shall issue an order to the central securities depository, which suspends the debtor's right to exercise the attached security.<sup>34</sup> The order for the suspension of the right to exercise the security must contain the requisites concerning the attached security, its owner and the period requested for this right. This content of the order must then be reflected in the content of the court's resolution.

Thus, a judicial officer will issue enforcement against securities, which **are not admitted to the market of listed securities of the Stock exchange, by selling them**. The lowest bid is the value of the security determined by an expert testimony. If the nature of the security does not allow it, the judicial officer invites the person who is to perform on the basis of the security to forward the performance to its due date within a period specified by him/her, which may not be longer than fifteen days after the due date. During the enforcement against shares, the security may be used only with the consent of the judicial officer.

Everything necessary for the preservation or exercise of rights concerning securities shall be carried out by the judicial officer on the basis of a special mandate, which is a court order. If the precondition for exercising the right concerning a security is to file a suit concerning the claim, the enforcement court, on the petition of the judicial officer, will appoint a guardian, who will have a procedural legitimacy to lodge an

---

<sup>33</sup> Mazák, p. 400.

<sup>34</sup> Sec.131 par. 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

action. The legal reason for such action will be the fact that the receivable has not been satisfied from the security. The parties to this proceeding will be the guardian who asserts the receivable of the debtor and the person obliged to satisfy the receivable, as the defendant.

As the Enforcement Code does not directly stipulate how the proceeds of enforcement against securities will be used, with regard to Sec. 131a par. 2 of the Enforcement Code, the rules governing the use of proceeds from the sale of movable assets by auction shall apply.

### III.9 Other attachment procedures

Unlike enforcement against shares, a related but more frequent way of attachment is an attachment of a **debtor's business share as a partner in a company**.

This is mainly due to the fact that the ownership of a business share is common in the business environment, especially in the most used type of business company (company limited by shares), and also because the information about its ownership is available to the public in the Business Register, which is publicly available on the Internet.

A judicial officer entrusted with the attachment notifies the creditor, the debtor and the company, where the debtor is a partner, of the enforcement commencement by affecting the business share. Then he/she prohibits the company, after the order has been issued, from paying a countervailing equity or a share from liquidation balance to the debtor and from giving consent to the transfer of the business share after issuing the order of enforcement commencement, if such consent is necessary. The judicial officer shall deliver the Notice of enforcement commencement to the creditor, the debtor and the company. The Notice should also be delivered to the relevant registry court in order to ensure the effects of this procedural act of the judicial officer and to prevent the use of the business share until the delivery of the Enforcement Order. This is not explicitly stated by the law.

After the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will issue an Enforcement Order. The Enforcement Order will only be delivered to the creditor, the debtor and the company.<sup>35</sup>

Upon delivery of the Enforcement Order, the debtor's partnership in the company terminates. If so, provided by specific legal provisions (Act No. 513/1991 Coll. Commercial Code) (*Obchodný zákonník*), the company is dissolved by delivery of the Enforcement Order. This will most often be the case if the debtor is the sole manager and partner in a company limited by shares.

The termination of the debtor's partnership in a company means that he/she is **entitled to a countervailing equity, which is the subject of this attachment**. Subsequently, the provisions on enforcement against movable assets shall apply. A

---

<sup>35</sup> Sec. 113b par. 4 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

very important part of the enforcement procedure is the determination of the value of the company's share in the net assets of the company. This is determined on the basis of regular separate financial balances for the accounting period, proceeding the accounting period in which the enforcement proceedings were initiated. This value is then the lowest bid in the auction of the business share.

If the delivery of the Enforcement Order terminates the debtor's partnership in the company, the company is obliged to transfer funds corresponding with a countervailing equity in the scope of the recovered receivable and its incidentals to the creditor. In the event that the company is in liquidation, it is obliged to remit to the creditor funds corresponding to the debtor's share in a liquidation balance, to the extent of the recovered receivable and its incidentals, unless the creditor has agreed otherwise in writing with the judicial officer.

**The provisions on ordering payment shall apply to the enforcement of a debtor's company share, in particular in relation to the payment of a countervailing equity.**

Another way of carrying out attachment, which the Enforcement Code assigns to attachment of a receivable, is the **enforcement by affecting other property rights**.

**Attachment is conditional on the fact that this property right is transferable and it is not a pecuniary claim or a right that belongs only to the debtor.** Thus, it must have a property character, it must be possible to exercise it through legal acts such as cession and it should not be a right associated with a liable person, meaning under the law of succession, alimony right, personal copyright, trade name right, etc.

The provisions on the enforcement of other pecuniary claims and enforcement against movable assets, depending on the nature of the other property right, shall apply to the attachment by affecting other property rights.

A particular procedure applies in case of a right of an owner of a patent, industrial design, utility model, trademark or topography according to special legislation. The provisions on enforcement against movable assets shall apply. This does not affect the rights of third parties entered in the register kept by the **Industrial Property Office** of the Slovak Republic or rights that expire at the latest upon death of a natural person.

The judicial officer entrusted with the enforcement, within which the applicable law is an industrial property right, delivers to the Industrial Property Office of the Slovak Republic a list of rights that are affected if these are registered or listed by this office or granted by it. He/she also delivers to the office a notice of the enforcement commencement, an auction deed, or a valid court decision on a petition to suspend enforcement, if it is a matter of cessation of enforcement.

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

Enforcement that is based on an enforceable title obliging performance other than payment is carried out in the same way as enforcement for payment performance. The provisions governing the commencement of proceedings, the petition, the authorization of a judicial officer, the notification of the enforcement commencement, the issuing of the Enforcement Order and the enforcement itself

shall apply. An entitlement to performance other than payment is one of the two types of enforcements. Enforcement for performance other than payment can be carried out by eviction, handing over movable assets, dividing up a shared item and rendering work and services.

**The enforceable title may contain a statement obliging a debtor to hand over a movable asset.** Such obligation is based on the right of ownership of a creditor, regardless of whether it is the exclusive ownership of the asset, a co-ownership relationship or a claim arising from the non-share co-ownership of the spouses. An item or set of items may be handed over, as well as securities. Movable assets or paper securities are always the subject of this enforcement. Failure to hand over the item does not render the enforcement inadmissible. Its incidentals are also handed over. If a document is required for the use of the item, this document will also be handed over by the debtor - most often it is a technical certificate of the vehicle.

**Enforcement is carried out by handing over an asset by the debtor with everything that belongs to it and giving it to an entitled party.** The judicial officer will request the assistance of a suitable person to carry out these proceedings, if possible, a representative of the municipality.

The judicial officer entrusted with the enforcement notifies the creditor and the debtor of the enforcement commencement by handing over movable assets or securities and takes away the securities or the asset with everything that belongs to it. The Notice of the enforcement commencement will be delivered to the debtor only upon handing over the assets or securities.

**After the asset has been handed over and the Notice of the enforcement commencement has been delivered, the asset must be kept until it is given to the creditor.** If the creditor does not present himself or herself for the handing over of the asset without justification and thus obstructs the enforcement, he/she is responsible for the incurred costs and possibly also for the fact that the asset cannot be handed over even in the near future. At the same time, the judicial officer may apply the provisions on the co-operation of the debtor due to the threat of a disciplinary fine, bringing the debtor for questioning, while the mere not handing over of the asset subject to enforcement meets the factual substance of the criminal offense of obstruction of enforcement proceedings.

If the asset cannot be handed over by the debtor for any reason, the officer may request the creditor to order an asset of the same type and the same quality at the expense and risk of the debtor. The request for the creditor is connected with the request for the debtor to pay the necessary costs to the creditor in advance. Enforcement of these costs will then be enforced in the ways in which the pecuniary claims can be recovered. In such case, the enforcement court should issue an addendum to the Enforcement Order, the subject of which will be these costs of enforcement, on the basis of the judicial officer's petition, which will be based on the expenses proved to them by the creditor. After issuing an addendum to the Enforcement Order, the judicial officer will extend the scope of enforcement by factual acts. The debtor does not have the right to raise objections against the costs

of enforcement in accordance with the law.<sup>36</sup>

After the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will then issue an Enforcement Order and the asset, which was handed over with everything that belongs to it, or the securities will be given to the creditor. The judicial officer shall notify the creditor of the time of enforcement in advance. The handing over of the movable assets or the paper securities will not take place unless the creditor or his/her representative is present.

If required by the purpose of the enforcement, the judicial officer is entitled to carry out a personal inspection of the debtor and an inspection of the debtor's apartment and other places where, according to a reasonable assumption, assets or paper securities, which a debtor is obliged to hand over or deliver to the creditor, could be found. For this purpose, the judicial officer is entitled to obtain access to the debtor's apartment or to another place of the debtor.<sup>37</sup>

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

The provisions of the Enforcement Code **do not oblige an employer to assign work** to an employee, for example in cases of reinstatement of employee to work. The employer-employee relationship is **addressed in the Labour Code, which also addresses a situation where there has been a wrongful dismissal and an employee insists on remaining employed.**

If the employee is wrongfully dismissed, or if his/her employment is terminated immediately or during a trial period and if the employee has informed the employer that he/she insists on being employed by them, his/her employment is not terminated, unless a court decides that it is not possible. The employer is obliged to provide the employee with wage compensation. This compensation is due to the employee in the amount of his/her average earnings from the date on which he/she informed the employer that he/she insists on further employment, until such time as the employer allows them to continue working or if the court decides to terminate the employment.<sup>38</sup>

It follows that if the employee insists on further employment and the court decides on the invalidity of his/her dismissal, he/she is entitled to wage compensation, meaning a pecuniary claim against the employer, which can be recovered in one of the ways provided by the Enforcement Code for recovery of pecuniary claim. This compensation does not have the character of a wage equivalent which the employee could not earn because the employer did not allow them to the job to which he/she undertook in the employment contract and he/she was able and willing to do. But it has the character of satisfaction for the employee and at the same time of a sanction against the employer who terminated the employment relationship with the

---

<sup>36</sup> Mazák, p. 513.

<sup>37</sup> Sec. 186 par. 6 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

<sup>38</sup> Sec. 79 of Act No. 311/2001 Coll. Labour Code.



employee without reason. The employer may be relieved of this obligation to pay compensation by assigning work to the employee, after his/her notification that he/she insists on continuing to be employed. The employer is forced to assign work to the employee by the obligation to pay the employee's salary even if he/she is not working.

If the total time, for which the employee should be reimbursed, exceeds nine months, the court may, at the request of the employer, reduce his/her obligation to reimburse the salary for a period exceeding nine months, or not grant this compensation at all. The court, in its decision, will take into account, whether the employee was employed by another employer at that time, his/her working duties, his/her earnings, whether there were any unfavourable circumstances (commuting to another municipality, overtime work, night work, etc.), or the reason why he/she did not participate at the work. The court may therefore reduce/not grant the compensation, only if the period exceeds nine months. In order to reduce/not grant the compensation, the employer must enforce this reduction in court.<sup>39</sup>

### III.12 Eviction

Eviction, as one of the methods of enforcement for performance other than payment, is divided into **eviction of an immovable property or its parts and eviction of an apartment**. Even with this method of enforcement, the procedure followed by the judicial officer does not differ in principle from the methods followed in the case of pecuniary claim.

The judicial officer entrusted with the enforcement shall notify the creditor and the debtor of the enforcement commencement by evicting an immovable property or part thereof. Subsequently, after the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will then issue an Enforcement Order (Enforcement Order of evicting an immovable property or part thereof) and determine the date of enforcement.

The Enforcement Order shall be delivered to the creditor, the debtor and the municipality, taking into account that the judicial officer will request the assistance of a suitable person to carry out these proceedings, if possible, a representative of the municipality.

Upon delivery of the Enforcement Order, the judicial officer shall take **measures to remove from the evicted property items belonging to the debtor and members of his/her family, as well as items belonging to someone else but placed in the evicted property with the debtor's consent**. He/she will then take measures to ensure that the debtor and all those who stay in the evicted property on the basis of a debtor's right are removed from the evicted property.

If there is a risk of violence on behalf of the parties during an eviction, a police officer should be present during enforcement. Items that are removed from the evicted property or parts of it are handed over to the debtor or to one of the adult members

<sup>39</sup> <https://www.epi.sk/odborny-clanok/Naroky-z-neplatneho-skoncenia-pracovneho-pomeru.htm>

of his/her family. If no one is present at the eviction who could take over the items, or if the take-over of the items is refused, they will be stored after they have been listed and attached. The listed and attached items are stored in the buildings of the municipality or with a person who deals with the storage of items. The debtor must be notified of the items' storage. The notification must also include instructions on the procedure to be chosen if the debtor does not take over the stored items within six months from the date of their storage.

If the debtor **does not take over the items within this period, they will be sold under petition** of the municipality according to the provisions stipulating the sale of movable assets, i.e., in an auction. The proceeds of the auction shall be paid by the judicial officer to the debtor after deduction of the storage costs, the sale costs and the enforcement costs.

The Enforcement Code distinguishes between the eviction of an immovable property or its parts and the eviction of an apartment. If the enforceable title requires a debtor to evict an apartment, the enforcement will be carried out in the same way as the enforcement in the case of eviction of an immovable property, meaning by evicting the debtor and all those living with him/her on the basis of his/her right from the apartment and completely emptying the apartment. The procedure is basically the same except for Sec. 185 of the Enforcement Code, taking into account the content of Act No. 182/1993 Coll. on Ownership of Flats and Non-residential Premises and also the Act No. 189/1992 Coll. on Regulation of Certain Circumstances Associated with Lease of Flats and with Replacement Flats.

If the enforceable decision, which is the basis for enforcement, requires the debtor to evict an apartment for which a **replacement apartment or alternative accommodation** must be provided, the judicial officer will carry out the enforcement proceedings only when the creditor proves that such compensation is provided for, as specified in the decision which is the basis for enforcement.

If there is no entitlement to housing compensation, **the eviction will be carried out to the shelter at the expense of a debtor and items from the evicted apartment will be stored either by the municipality or by a person dealing with storage.** The costs of this storage are also borne by the debtor. If the debtor is entitled to alternative accommodation according to the content of the enforceable title, he/she moves to this alternative accommodation. If the debtor is entitled to a replacement apartment, the judicial officer will carry out the enforcement by evicting the debtor and all those who live with him/her on the basis of his/her right from the apartment to a replacement apartment, remove the items from the evicted apartment and place them in the replacement apartment. The judicial officer will draft a deed of this enforcement. He/she will describe the course of the enforcement; mark the evicted persons, the removed items, the objections of the parties and the opinion of an admitted person.<sup>40</sup>

The creditor and the debtor may raise objections before the judicial officer against the

---

<sup>40</sup> Mazák, p. 497.

housing compensation within three days from the delivery of the Notice of the enforcement commencement. The court shall decide on the objections and the provisions on the court's decision on the petition to suspend enforcement shall apply. Objections against housing compensation may not be directed against the statement of the enforceable title, which was binding and unchangeable on the nature of the housing compensation or on the fact that the debtor is not entitled to it.

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

Enforcement for performance other than payment can be carried out by **eviction, handing over movable assets, dividing up a shared item and rendering work and services.**

In the case of enforcement by **dividing up a shared item**, the enforceable title is a decision, abolishing co-ownership of a movable asset or immovable property/reaching a settlement of this co-ownership by the sale of a shared movable asset or immovable property. Enforcement proceedings are initiated in response to a petition from any of the co-owners and the judicial officer's procedure is governed by the provisions on enforcement against movable assets or immovable property. The method of enforcement is determined by the content of the enforceable title. According to the law, the judicial officer notifies the creditor and the debtor of the enforcement commencement, but in fact he/she notifies all co-owners of the enforcement commencement.

After the expiry of the deadline for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will then issue an Enforcement Order and carry out the enforcement.

Upon delivery of the Enforcement Order to the debtor, the judicial officer will carry out the enforcement in accordance **with the provisions on enforcement against movable assets or immovable property, and subsequently pay the proceeds of the sale of the shared asset to all former co-owners according to the amount of their shares.**

If a shared movable asset or immovable property **cannot be sold, a judicial officer will terminate the enforcement by dividing up the shared item.**

The subject of enforcement by dividing up a shared item can also be carried out by means other than by selling it. This may be the case if the enforceable title requires a **shared movable asset or immovable property to be divided by means other than by selling it, in particular by actual division of the shared item.** In the case of movable assets, this method is rather exceptional, and in the case of immovable property, the actual distribution must take place according to the amount of the co-owner's shares and on the basis of a **geometric plan.** Each of the co-owners has the right to a really divided part of the shared item according to the scope of his/her rights, and this right must be based on the technical division of an immovable property in the real parts determined by the geometric plan. The judicial officer will request the assistance of a suitable person to carry out the enforcement, if possible, a representative of the municipality.



According to Sec. 191 of the Enforcement Code, enforcement by rendering work and services is carried out if the enforceable title requires the debtor to perform for the creditor such work that can be described as substitutable action of the debtor, in which he/she can be represented by the creditor or by another person. Thus, a substitutable action within the context of rendering work and services is such work or service, or other act, which can be objectively performed otherwise than personally by the debtor. The assessment of this issue depends on the specific case and the content of the enforceable title. Substitute performance may be a modification or repair of an item, demolition of a building, publication of a press correction in a newspaper, etc.

The judicial officer entrusted with the enforcement shall notify the creditor and the debtor of the enforcement commencement by performing certain work or service, and after the deadline expiry for lodging a petition to suspend enforcement with a suspensive effect, or after receiving a court decision rejecting such petition, the judicial officer will issue an Enforcement Order and carry out enforcement.<sup>41</sup>

**After the delivery of the Enforcement Order to the debtor, the judicial officer shall invite the creditor to have the work in question performed by someone else or to perform it on his/her own, at the debtor's expense. At the same time, he/she may request the debtor to pay these costs to the creditor in advance.** The costs in question are quantified and documented by the creditor for the judicial officer; subsequently, the judicial officer projects them into the Enforcement Order. Enforcement is then carried out in one of the ways provided for the recovery of pecuniary claims.

Irreplaceable performance is an irreplaceable activity of the debtor, which is the content of the statement of the enforceable title and consists of work or service of the debtor, which cannot objectively be performed by anyone other than the debtor. This is a kind of irreplaceable activity, which consists of e.g., in refraining from acting or tolerations of certain actions entitled against the debtor. Therefore, the procedure of the judicial officer in enforcement proceedings without meeting the irreplaceable obligation consists in imposing fines for each breach or for not meeting the obligations by the debtor.

The judicial officer, on the basis of a court's decision, imposes a **fine of up to a total amount of EUR 30,000** and, in the event of voluntary non-compliance, enforces them in one of the ways intended for the recovery of pecuniary claims. Fines are revenue of the state budget. However, the payment of fines does not release the debtor from the imposed obligation and from liability for damage. This responsibility is absolute, objective in nature and cannot be liberated.

If, by breaching the obligation imposed on him/her, a debtor causes a change in the situation which presupposes a decision which is the basis for enforcement, the judicial officer invites the creditor to take care of restoring the previous situation at the debtor's costs. Enforcement is then carried out in one of the ways prescribed to satisfy

---

<sup>41</sup> Sec. 191 par. 2 of Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).

pecuniary claims. The judicial officer may take appropriate measures to assist the creditor in restoring the previous state.

### III.14 Sequestration of goods

In the case of sequestration of the debtor's goods, it is necessary to proceed in accordance with the provisions regulating the enforcement against movable assets.

The precondition for sequestration of goods is the delivery of a Notice of the enforcement commencement against movable assets to the debtor and the subsequent listing of these movable assets. This listing initiates the prohibition of the debtor to use the listed goods, the obligation to obtain an estimate of the goods and possibly also the obligation to ensure their storage.

During the listing, the judicial officer firstly **lists the goods that could be sold, to such extent that the proceeds of the sale of the listed goods are sufficient to satisfy the receivable and its incidentals together with the costs of enforcement.** He/she firstly lists the goods that the debtor does not need and which are the easiest to sell.

Perishable goods are listed only if there are not enough other goods and if they can be sold quickly, and these goods are preferably offered to the creditor at a price determined by the judicial officer.

If there is a concern that the listed movable assets may be removed, damaged or destroyed, the judicial officer **will take care of their appropriate security at the expense of the debtor by marking them with a seal or stamp** of the judicial officer or store them in the premises marked him/her. The judicial officer may therefore leave the listed goods with the debtor or store them, either on the premises of the judicial officer's office or in other premises on the basis of a storage contract.

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

Under Sec. 45 of the Enforcement Code **an enforceable title from another country can also become enforceable in the Slovak Republic.** We can understand it mainly as a decision from another country that is enforceable on the basis of **three categories of legal provisions:**

- Regulations of the European Parliament and of the Council (EU) applicable to legal relations arising in the Member States,
- Act No. 244/2002 Coll. on arbitration, which applies to the recognition and enforcement of arbitration awards from another country which are enforceable in the Slovak Republic,
- Act No. 97/1963 Coll. on International Private and Procedural Law, which applies to enforceable titles from another country, which cannot be dealt with under Regulations of the European Parliament and of the Council (EU) and only if no international agreement has been concluded.<sup>42</sup>

---

<sup>42</sup> Mazák, p. 127.

Recognition and enforcement of **arbitration awards from another country** which are enforceable in the Slovak Republic are regulated by the Act No. 244/2002 Coll. on arbitration, as amended (Sec. 46 et seq. of Act). An arbitration award from another country shall be recognized by a court having jurisdiction to issue the Enforcement Order, taking into account this decision, as if it were a domestic arbitration award, meaning the decision shall be 'recognized' by issuing the order. However, the conditions of recognition, regulated in the Act on arbitration, are always preceded by an arrangement in an international agreement. Such international agreement is, above all, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958 (Decree No. 74/1959 Coll.). In addition, the mutual recognition of arbitration awards is governed by certain bilateral agreements. In the event that a state with which the Slovak Republic is also bound by a bilateral agreement is a party to the above-mentioned convention, the bilateral agreement shall prevail.<sup>43</sup>

Another category is **Enforcement Orders from other countries, in the case of which the Regulations of the European Parliament and of the Council (EU) do not apply and which are not decisions made in arbitration proceedings**. Under the Act No. 97/1963 Coll. on International Private and Procedural Law, decisions of foreign authorities and approved agreements and settlements by them in matters of civil, business, family, labour and other similar relations with an international element, if they are decided by courts in the Slovak Republic, as well as notarial deeds from other countries in these matters (hereinafter "decisions from other countries") **are effective in the Slovak Republic if they have been recognized by the Slovak authorities**.

A decision from another country recognized by a Slovak court **has the same legal effects** as a decision of a Slovak court. If it is not a decision in family law matters, a decision from another country will be recognized by a Slovak court, ordering its enforcement or issuing the Enforcement Order; if such decision does not require performance, the Slovak authority recognizes it by taking it into account as if it were a decision of a Slovak court.<sup>44</sup>

**The Act on International Private and Procedural Law also stipulates the conditions for the recognition of a decision from another country**. This decision may not be recognized or enforced if

- the recognition is impeded by the exclusive competence of Slovak authorities or an authority of a foreign state would not have the power to rule if the provisions of Slovak law were used to assess its competence;
- it is not valid or enforceable in the country in which it was issued;
- it is not a decision on the merits;

<sup>43</sup> <https://www.justice.gov.sk/Stranky/Nase-sluzby/Medzinarodne-pravo/Justicna%20spolupraca%20v%20obcianskych%20a%20obchodnych%20veciach/Prakticke%20informacie%20pre%20justicne%20organy/Informacia-k-uznaniu-vykonu-cudzich-rozhodcovskych-rozhodnuti.aspx>

<sup>44</sup> Under Sec. 67 par. 3 of Act No. 97/1963 Coll. on International Private and Procedural Law.



- a party, against whom the decision is to be recognized, has been deprived of the right to take action against the decision of that authority, in particular if he/she has not been duly served with the summons or a notification of enforcement commencement; the court does not examine the satisfaction of this condition if a decision from another country has been duly served to this party and the party has not appealed against it or the party has stated that it does not insist on examining this condition;
- a Slovak court has already validly ruled on the case or there is an earlier decision from another country in the same case, which was recognized or meets the conditions for recognition;
- recognition would be contrary to Slovak public order.

The certificate of enforceability of the enforceable title is issued by an **authority of the foreign country in which the enforceable title was issued**. The actual enforcement of a decision from another country is governed by the same rules as the enforcement of a Slovak enforceable title. Exceptions include the obligation of a creditor to provide additional annexes to the petition for issuing the enforcement as well as the possibility for a debtor to defend himself/herself in some cases against the recognition and enforcement of a decision from another country.

An entitled party shall also **attach to the petition for issuing the enforcement, on the basis of the enforceable title from another country, documents specified in special legislation** - namely, in particular, an official translation of the decision to the Slovak language. If, pursuant to special legislation, a decision on the declaration of enforceability is required for the enforcement, the creditor also attaches the decision of the court on the declaration of enforceability of the enforceable title from another country. If the recognition of the enforceable title from another country has been ruled by a court in special proceedings, an entitled party also attaches the decision on recognition. If the enforceable title from another country has been certified in accordance with special legislation and a court decision on its enforceability is not required as a condition for its enforcement, the creditor also attaches this certificate.

If enforcement is sought on the basis of the enforceable title from another country under the Act on the Private and Procedural International Law and the enforceable title has not been declared or recognized as enforceable, the court, before issuing the enforcement, delivers the enforceable title from another country to the person, who is marked as the debtor in the enforceable title and instructs him/her on the possibility of objecting to the grounds for non-recognition under special legislation. The enforceable title from another country is only delivered to the debtor.

The debtor shall then, within 15 days of its delivery, have the right to state the reasons which would prevent the recognition or exercise of the enforceable title from another country or to lodge a petition for its independent recognition. If the debtor does not perform within this period, the court reviews the conditions of recognition and of issuing the enforcement, which are examined without a petition, and if it does not find obstacles to recognition or its issuing and there are no grounds for rejecting the petition, it issues the enforcement. The inaction of the debtor at this stage of the

proceedings will result in the impossibility of invoking these grounds during the enforcement itself as part of the debtor's defence after delivery of the Notice of the enforcement commencement, given the fact that these grounds can only be a reason to suspend the enforcement if they could not be invoked earlier.

## **PART IV: ENFORCEMENT COSTS**

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

**The costs of enforcement proceedings are the costs of the judicial officer, the costs of the parties and the costs of the state.**

To summarize the costs of the enforcement proceedings, we present an overview.

#### **a) Judicial officer's costs:**

##### **a. Remuneration**

- i. 20% of the recovered performance (10% in case of payment within 15 days from the delivery of the Notice of the enforcement commencement) in the case of payment performance
- ii. Remuneration for individual methods of enforcement in case of performance other than payment

##### **b. Reimbursement of expenses**

- i. Flat-rate expenses EUR 60 (EUR 30 in case of payment within 15 days from the delivery of the Notice of enforcement commencement)
- ii. Necessary expenses for particular enforcement methods

#### **b) Costs of parties in the proceedings**

##### **a. Creditor's costs**

- i. Court fee for lodging a petition for enforcement EUR 16,50
- ii. Costs connected with a petition to carry out enforcement (in case of lodging through a judicial officer EUR 16,50)
- iii. Costs associated with a debtor's petition to suspend the enforcement

##### **b. Debtor's costs**

- i. Costs associated with a debtor's petition to suspend the enforcement

The judicial officer's costs consist of the **judicial officer's remuneration and reimbursement of expenses stipulated by the Enforcement Code**. For the

performance of enforcement activities, a judicial officer is entitled to remuneration and reimbursement of flat-rate expenses and necessary expenses associated with the conduct of proceedings, which are not covered by flat-rate expenses. **These costs are paid by the debtor.** The claims listed in the law are exhaustively determined and cannot be extended in connection with the enforcement activity. Remuneration and reimbursement of cash expenses are increased by value added **tax.**

The judicial officer's remuneration represents the **payment for the performed enforcement activity.** The method of determining the remuneration depends on whether the subject of enforcement is the right to payment performance or performance other than payment. The amount of the judicial officer's remuneration in the case of enforcement for the recovery of the right to payment performance shall be determined as a percentage of the recovered performance and may not exceed the amount of the enforced claim according to the situation on the date of issuing the enforcement. In addition to this limitation, a judicial officer's remuneration is limited to EUR 33,000.

The amount of the judicial officer's remuneration, reimbursement of expenses, advance payment for his/her costs and the method of their determination is determined by Decree of the Ministry of Justice of the Slovak Republic No. 68/2017 Coll. *implementing certain provisions of Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).* The base for determining the judicial officer's remuneration for the performance of enforcement activities during enforcement on payment performance is the amount of the recovered performance, while the **remuneration amounts to 20% of the base.** This also applies in the case of enforcement for the recovery of maintenance. If the debtor pays the claim by the time the deadline for lodging a petition to suspend enforcement expires, i.e., **within 15 days from the delivery of the Notice of the enforcement commencement, the remuneration is 10% of the base for its determination.**

If the debtor has paid the claim of the judicial officer before the commencement of enforcement, the judicial officer does not receive remuneration. Remuneration is tied to the performance of the enforcement by the judicial officer, and if the reason for its commencement has ceased, he/she is not entitled to remuneration.

In addition to remuneration in the case of enforcement for payment performance, the judicial officer is also entitled to remuneration in the amount of EUR 30 for the **enforcement on a lien established on an immovable property;** the proceeds of its monetization form a distributed substance. If the divided substance consists of the proceeds from the monetization of some immovable property, the judicial officer is entitled to remuneration only once.

The remuneration for enforcement for performance other than payment is calculated under Sec. 10 - 17 of the Decree. The remuneration for the enforcement of **evicting an immovable property** or its part is EUR 200 for each evicted immovable property or its part, including the incidentals of the property or its part, but not more than EUR 2,000 for all evicted immovable property on the basis of one enforceable title. For the

enforcement by **handing over movable assets**, the judicial officer is entitled to remuneration of EUR 30 for each asset, but not more than EUR 200 for all movable assets handed over on the basis of one enforceable title. For the enforcement by **dividing up a shared item** other than by selling it, the judicial officer is entitled to remuneration of EUR 100 for each divided item. For the enforcement by rendering work and services, the judicial officer is entitled to remuneration of **10% of the value of work and services** necessary for the satisfaction of the enforced obligation, a minimum of EUR 30 and a maximum of EUR 1,000. However, even in the case of performance other than payment it stands that if a debtor satisfies the obligation within 15 days from the delivery of the Notice of the enforcement commencement, the judicial officer is entitled to 50% of the remuneration.

Only in the context of enforcement to satisfy the right of performance other than payment the judicial officer may request from the creditor a **reasonable advance payment** for the necessary expenses associated with the conduct of the proceedings. Its amount shall be determined by the judicial officer with professional care, taking into account the estimated expenses of the specified method of enforcement. The judicial officer is obliged to justify the procedure which is carried out with professional care in determining the amount of the advance. According to the decree, the creditor is entitled to demand a deposit of 50% of the estimated expenses in accordance with the provisions on remuneration for individual methods of performance. The judicial officer may not claim an advance on the necessary expenses associated with the conduct of proceedings in the case of enforcement for payment performance.

If the creditor does not make an advance payment even at the request of the judicial officer within a period of at least 15 days specified by the latter, the judicial officer issues a Notice of termination of the enforcement. However, an advance payment is not required in the case of a creditor who is exempt from court fees.

In addition to remuneration, the judicial officer is entitled to reimbursement of expenses, i.e., reimbursement of flat-rate expenses and reimbursement of necessary expenses associated with the conduct of proceedings. Flat-rate reimbursement of cash expenses was introduced in 2017 for reasons of increased clarity and transparency of enforcement, as it often happened that each enforcement agent proceeded differently in calculating cash expenses and sometimes purposefully increased these expenses.

**The reimbursement of flat - rate expenses includes:**

- costs of keeping the file;
- travel, postage and electronic communications services;
- costs of investigating a debtor's property relations in information systems;
- costs associated with the reporting of a judicial officer on the identification of a debtor's assets sent by electronic means;
- other administrative costs.

Thus, the judicial officer does not quantify the expenses for these activities as it was in the past, but he/she is entitled to reimbursement of flat - rate expenses totalling EUR 60, while the law does not distinguish whether he/she will spend less during the enforcement or his/her actual costs will exceed this amount. If the enforced claim is satisfied by the deadline expiry for lodging a petition to suspend the enforcement, or if there is another reason for termination of the enforcement within this deadline, the judicial officer is entitled to a flat-rate reimbursement of EUR 30.

**The necessary expenses associated with the conduct of the proceedings** are proven, justified and expediently incurred expenses in the enforcement against movable assets, on immovable property, by selling a company and enforcement for performance other than payment, which are not covered by flat-rate expenses.<sup>45</sup> This provision protects judicial officers from ending in loss, when carrying out more administratively demanding ways of enforcement which are assumed to exceed the flat - rate expenses. In such case, in addition to the flat-rate expenses, the reimbursement of expenses to the extent of their actual expenditure is also included.

Unlike the legislation before 2017, at present a party to the proceedings can no longer object to the costs of enforcement, as these are clearly stated by law according to precise rules. Should a judicial officer act in breach of the provisions on the calculation of costs, he/she shall be liable to disciplinary action. The costs of enforcement will be subject to review by the court only in connection with the suspension of enforcement by the judicial officer, the objections lodged against the notification of the suspension of enforcement and the request for reimbursement of a judicial officer's costs.

**The costs of the parties to the proceedings may incur for a creditor and also for a debtor.** Creditor's costs include the expenses for representation in the enforcement proceedings in connection with the lodging of a petition for enforcement and in connection with the debtor's petition to suspend the enforcement, the expenses for the paid court fee and the cash expenses associated with the lodging of a petition for enforcement. The costs related to the lodging of a petition for enforcement depend on the method of lodging this petition, depending on whether the creditor has lodged a petition separately, through a lawyer or through a judicial officer. The judicial officer is entitled to the remuneration of EUR 16.50 for forming a petition for the enforcement.<sup>46</sup> If the petition is lodged by a lawyer, the procedure is in accordance with the Decree of the Ministry of Justice of the Slovak Republic No. 655/2004 Coll., on Remuneration and Reimbursement of Lawyers for the provision of legal services as amended, namely by calculating the lawyer's remuneration for forming a petition from the value of the dispute in accordance with the provisions on tariff remuneration.

---

<sup>45</sup> Sec.21 par. 3 of the Decree of the Ministry of Justice of the SR No. 68/2017 Coll. *implementing certain provisions of Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).*

<sup>46</sup> According to Sec.17 of the Decree of the Ministry of Justice of the SR No. 68/2017 Coll. *implementing certain provisions of Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).*



Expenditures in connection with this petition through a lawyer may be considered as expenses of the creditor in connection with the debtor's petition to suspend the enforcement, as long as the decision on the petition to suspend the enforcement is successful.

**The court fee for lodging a petition for enforcement is in the amount of EUR 16, 50.<sup>47</sup>**

The billing data for paying this fee are communicated automatically. If the payment of the fee is not paid within 15 days after lodging the petition, the latter is disregarded; this does not apply if the creditor is exempt from court fees, e.g., the Slovak Republic, state budget organizations, municipalities and higher territorial units in proceedings in matters of public and social interest, foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, the petitioner in the proceedings for the determination of maintenance and other persons exhaustively listed in Sec. 4 par. 2 of Act No. 71/1992 Coll. on court charges and the fee for a copy from the criminal record. The provision of Sec. 4 par. 1 of this Act also exhaustively sets out types of court proceedings which are exempt from the court fee, and this exemption also applies to enforcement proceedings in both cases.

**Debtor's costs** include the expenses for representation in the enforcement proceedings in connection with a petition to suspend the enforcement. However, he/she is entitled to these costs only if the petition for suspension of enforcement is successful, in which case the court will award the costs of legal representation of the debtor in the decision on suspension of enforcement and will generally reimburse them to the creditor due to procedural fault.

**The creditor is usually entitled to reimbursement of costs against the debtor.** As he/she pays the costs before the enforcement commencement itself (with the exception of the costs associated with a petition to suspend the enforcement), the role of the judicial officer is to recover these costs from the debtor together with a receivable of the creditor.

**The costs of the judicial officer are, in principle, paid by the debtor, either by satisfying the enforced claim or by tolerating their satisfaction from the debtor's property subject to enforcement.**

However, a situation may arise in enforcement, where the creditor will be liable for the costs of enforcement. If the enforcement is terminated for a reason other than for the recovery or satisfaction of the enforced claim by the debtor and this reason that can be attributed to the creditor or for a reason for which it is up to the judicial officer to issue a Notice for termination of enforcement, the costs of enforcement shall be paid by the creditor. However, these will consist only of reimbursement of expenses, and if the judicial officer partially recovered or accepted the performance to satisfy the enforced claim before the cessation of the enforcement, he/she is also entitled to the costs he/she has thus retained, to the extent that they exceed the reimbursement of expenses. This cannot lead to a situation the creditor also pays the judicial officer's

---

<sup>47</sup> Entry 13 a) of Act No. 71/1992 Coll. on court charges and the fee for a copy from the criminal record.

remuneration which must always be recovered from the debtor. The creditor is also liable for the damage which incurred to the debtor in connection with the enforcement proceedings, if the creditor was not entitled to lodge a petition for enforcement.

In addition, the payment of the judicial officer's costs by the creditor in the amount of a remuneration and flat-rate expenses is jointly and severally liable by those who have been entitled since the enforcement commencement. The provisions of the Civil Liability Code shall apply in the same way. If these persons voluntarily fail to satisfy their obligation at the request of the judicial officer, a claim may be brought against them in an ordinary court by an action.<sup>48</sup> The law thus introduced the liability of former debtors for the costs of the judicial officer, in order to prevent the speculative transfer of receivables to the indigent debtors in an effort to avoid reimbursement of the costs of proceedings when the old enforcements are suspended.

In case of termination of the enforcement by recovery or satisfaction of a claim, the judicial officer issues a **final account of enforcement** in which he/she states in particular the amount of the receivable recovered for the creditor, the amount of recovered costs for the creditor and the amount of recovered costs for the judicial officer, which is a part of the Notice of enforcement termination and is delivered to the parties to the proceedings and to the court. When the enforcement is suspended, the judicial officer does not automatically provide this, but the creditor and the debtor have the right to demand from the judicial officer to issue a final account of the enforcement proceedings within 30 days from the suspension of the enforcement by the court or from the date when the Notice of suspension of the enforcement was issued.

#### PART V: LINKS, LITERATURE AND SOURCES

- MAZÁK, J. JUDr. 2017. *The Enforcement Code: Commentary*
- Act No. 305/2013 Coll. on the electronic form of governance conducted by public authorities and on amendments and supplements to other acts (e-Government Act) (*zákon o e-Governmente*)
- Act No. 171/1993 Coll. on the Police Force
- Act No. 300/2005 Coll. Criminal Code (*Trestný zákon*)
- Regulation of the Government of the Slovak Republic No. 268/2006 Coll. on the Extent of Payroll Deductions within the Enforcement
- Act No. 311/2001 Coll. Labour Code (*Zákonník práce*)
- <https://www.epi.sk/odborny-clanok/Naroky-z-neplatneho-skoncenia-pracovneho-pomeru.htm>
- Act No. 233/1995 Coll. on judicial officers and enforcement proceedings and

<sup>48</sup> Sec. 199c par. 3 of the Decree of the Ministry of Justice of the SR No. 68/2017 Coll. *implementing certain provisions of Act of the National Council of the SR No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code).*

on the amendment of other acts, as amended (the Enforcement Code)  
(*Exekučný poriadok*)

- <https://www.justice.gov.sk/Stranky/Nase-sluzby/Medzinarodne-pravo/Justicna%20spolupraca%20v%20obcianskych%20a%20obchodnych%20oveciach/Prakticke%20informacie%20pre%20justicne%20organy/Informacia-k-uznaniu-vykonu-cudzich-rozhodcovskych-rozhodnuti.aspx>
- Act No. 97/1963 Coll. on International Private and Procedural Law
- Decree of the Ministry of Justice of the Slovak Republic No. 68/2017 Coll. *implementing certain provisions of Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial officers and enforcement proceedings and on the amendment of other acts, as amended (the Enforcement Code)*
- Act No. 71/1992 Coll. on court charges and the fee for a copy from the criminal record