

EU Enforcement Atlas Project – North Macedonia

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Civil enforcement in North Macedonia

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1. Part I: Legal Framework

1.1. Legislation affecting civil enforcement

Two legal acts are considered as the main source of enforcement law in North Macedonia: Enforcement Act¹ and Law on Security of Claims.² Both, are considered procedural laws with particular specificity given that apart from clearly procedural rules, they also stipulate substantial provisions regarding certain issues of substantial nature related to the conduct of enforcement and proceedings for security of claims.

EA regulates the rules according to which the enforcement agents act in order to forcibly enforce: court decision for fulfillment of an obligation, unless otherwise stipulated by another law; decision passed in an administrative procedure for fulfillment of monetary obligation, unless otherwise stipulated by another law; and notarial titles and other enforcement titles stipulated by law. The provisions of the EA also apply regarding forcible enforcement of ship or aircraft.³ On the other side, LSC specifies the means of security of claims, their determination and the rules according to which the court, the enforcement agent and the notary public act regarding the security of claims.⁴

The Civil Procedure Act⁵ is a subsidiary legal source of enforcement law. During enforcement or procedure for security of claims the provisions of the CPA shall apply accordingly, unless otherwise provided by the EA, the LSC or other law.⁶ The application of CPA provisions in the field of enforcement implies for a modified application of such provisions in accordance with the fundamental principles of enforcement and proceedings for security of claims.

Apart from the main laws affecting civil enforcement, several bylaws should be mentioned in this occasion given that they are considered important for the practical implementation of the rules determined by the EA: 1) Rules on the form of orders, conclusions, minutes, requests, official notes, certificates and other documents of the enforcement agent when taking the enforcement actions⁷; 2) Tariff for remuneration and recovery of other expenses for the work of enforcement agents⁸; 3) Rules on the form, content and manner of keeping the Register of received requests for

¹ Official Gazette of RM, No. 72/16, 142/16, 233/18, 14/20 (hereinafter EA).

² Official Gazette of RM, No. 87/2007, 31/2016 (hereinafter LSC).

³ Art. 1 of EA.

⁴ Art. 1 of LSC.

⁵ Official Gazette of RM, No. 79/05, 110/08, 83/09, 116/10, 124/15 (hereinafter CPA).

⁶ Art. 10 of EA 2016 and Art. of 7 LSC.

⁷ Official Gazette of RM, No. 72/16, 142/16, 233/18.

⁸ Official Gazette of RM, No. 32/19.

enforcement⁹; 4) Rules on the method of performing supervision over the work of the Chamber of enforcement agents of the Republic of North Macedonia and the enforcement agents.¹⁰

Beside the legal acts that are considered as principal and main source of civil enforcement, there are many other laws that are considered as sources in this legal area. In that regard, we will mention only few of them: Law on Courts, Law on State Attorney, Law on Advocacy, Notary Public Act, Law on Administrative Procedure, Insolvency Act, Law on Obligations, Law on International Private Law, Law on Contractual Pledge, Law on Real Estate Cadaster and etc.

1.2. Enforceable titles

Macedonian EA sets a list of documents that have the character of an enforcement title. There is no general definition for the enforcement title in the EA. The EA only determines the types of enforcement titles. In that regard, EA opts for a *numerus clausus* system – enforcement titles are only the titles that are determined by law.

The EA distinguishes five categories of enforceable titles: 1) an enforceable court decision and court settlement; 2) an enforceable decision and settlement in an administrative procedure if designated for fulfilment of a monetary claim; 3) an enforceable notarial deed; 4) a decision for issuing a notarial payment order;¹¹ and 5) other title designated by law as enforceable title.¹²

A court decision, as provided by the EA, shall be considered to be a judgement, decision, payment order or other order issued by the courts, the elected courts and the arbitrations, while a court settlement shall be considered to be the settlement concluded before these courts.¹³ Along with the court decision of domestic courts and arbitrations, a decision of a foreign court, under certain conditions, has a character of an enforceable title as well. According to the EA, an enforcement of a decision of a foreign court may be carried out in North Macedonia if the decision meets the requirements for recognition provided by law or international agreement ratified in accordance with the Constitution of North Macedonia.¹⁴

A decision in an administrative procedure, as provided by the EA, shall be considered to be a decision or conclusion reached by a state administration body or a legal entity in the course of

⁹ Official Gazzette of RM, No. 226/2016.

¹⁰ Official Gazzette of RM, No. 226/2016.

¹¹ Until 2016, the procedure for issuing a decision allowing enforcement on the basis of a credible document, as well as the legal remedy that can be declared against that decision was regulated in the EA. Since the EA regulates the enforcement proceedings itself, but not the creation of enforceable titles, these provisions now are part of the Notary Public Act.

¹² Art. 12 (1) of EA as amended in 2018.

¹³ Art. 13 (1) of EA.

¹⁴ Art. 8 of EA.

performing their public authorizations determined by the law, whereas a settlement in an administrative procedure shall be considered to be a settlement concluded in accordance with the Law on Administrative Procedure.¹⁵

Regarding the notarial deeds, the EA provides that the notarial deed shall be enforceable title if it has become enforceable according to special provision that regulates the enforceability of such title.¹⁶ The decision for issuing a notarial payment order becomes an enforcement title after the notary certifies it as final and enforceable.¹⁷

Additionally, the EA expressly stipulates how each of these enforceable titles becomes effective¹⁸, and provided for that the enforceable title is eligible for enforcement if the names of the debtor and the creditor, as well as the object, the type, the scope and the time for the fulfilment of the obligation are specified therein.¹⁹

Before an enforceable title can be enforced it must bear some sign that it is indeed enforceable. According to the EA the authorisation may be given by the competent authority that issued the enforceable title. Namely, a certificate of enforceability shall be placed by the court, i.e. the body that decided on the claim in first instance (after checking whether the criteria for enforceability are met). The unfounded confirmation of the enforceability shall be revoked by a decision of the same court i.e. body upon the request or *ex officio*.²⁰ If the certificate of enforceability is revoked, the enforcement agent shall terminate the enforcement *ex officio*.²¹

1.3. Service of documents to parties and third parties

Service of document relating to the various steps in the enforcement proceedings is an essential part of enforcement actions. Under the EA, the documents relating to enforcement are served directly by the enforcement agent or via postal channel.

If the person to whom the document should be directly served is not found where the service is to be performed, the enforcement agent will leave to one of the persons listed in Article 136 of

¹⁵ Art. 13(2) of EA.

¹⁶ Art. 16(1) of EA. In that direction, the Notary Public Act contains the standard definition that: a notarial deed is an enforceable document, if it determines a certain obligation for doing something that the parties can agree on and if it contains a statement of the debtor that based on that document, after the maturity of the obligation forced execution can be directly conducted.

¹⁷ Article 16 (2) of EA. These provisions can be found in Article 53 of the Notary Public Act.

¹⁸ Articles 14 and 15 of EA.

¹⁹ If the time limit for voluntary fulfillment of the obligation is not specified in the enforceable title, the enforcement agent shall summon the debtor to fulfill the obligation determined in the enforceable title within eight days from the day of delivery of the summon (Article 17 (2) of EA).

²⁰ Articles 12(2) and (3) of EA.

²¹ Article 93(1) line 1 of EA.

the Civil Procedure Act²² a written notification on a certain day and hour to come in the office of the enforcement agent for the purpose of receiving the document. If the person does not come to receive the document, and does not justify the arrival within three days from the day when it is called to the office of the enforcement agent to receive it, the document will be sent by registered post mail. If the document is not picked up within eight days from the day of notification that the document is to be picked up, the service shall be deemed to have been duly made.

If the service is performed via postal channels, it should be made by registered post mail. If the delivery fails, another attempt will be made within eight days by registered mail. In case of unsuccessful repeated attempt, the enforcement agent shall make the delivery by public announcement. The enforcement agent is obliged to ascertain every unsuccessful attempt for delivery with an official note.

For the actions undertaken for service of documents the enforcement agent has the right to compensation and material costs in accordance with the Tariff for remuneration and recovery of other expenses for the work of the enforcement agent.

Service of document by public announcement is another method of service. It is performed when the residence or domicile, i.e. the seat of the party is unknown to the enforcement agent whose document is served, or the enforcement agent could not make a proper service to the party in accordance with previously mentioned provisions. The enforcement agent should make the announcement through a daily press that is in circulation on the entire territory of North Macedonia, as well as on the website of the Chamber of Enforcement Agents.²³ In addition, the announcement should be made with a one-time publication in the "Official Gazette of the Republic North Macedonia". According to the amendments of the EA in 2018, the latter method of service by public announcement is crucial because the deadlines for action begin to run since then.

The announcement contains the name of the enforcement agent, the name/title of the party, the known address, the case number and the period in which the party should contact the enforcement agent. The announcement also contains a warning to the party that such manner of service is considered as proper service, and the harmful consequences that may occur are borne by the party itself. After the expiration of the time provided in the announcement it shall be considered that the party has been duly notified in writing.

²² It includes an adult member of the household or a person at the same working position.

²³ The announcement in a daily press during three consecutive issues was repealed by the amendments of the EA in 2018.

1.4. Legal remedies, appeal and objection

Macedonian legislation recognizes the complaint on account of enforcement's illegalities as the sole legal remedy in the civil enforcement system.

Under the EA, the complaint on account of enforcement's illegalities can be filled by the parties (creditor and debtor), but also, by a participant or a third party whose rights or legal interests are affected by the enforcement. A party, participant or third party may file a complaint if they consider that the enforcement agent acted illegally during the enforcement or failed to take a certain legal action. The judicial control/review is focused on the enforcement agents' actions, i.e. whether he/she acted in accordance with the law during enforcement and took enforcement actions as required by the law. In this regard, illegalities that may occur during enforcement, as a valid reason for filing a complaint, shall be considered for e.g. violations of legal rules on preconditions of enforcement²⁴, or violations relating to the time, place and manner of taking certain enforcement action.²⁵ The direct goal of the complaint is to declare the enforcement action or enforcement inadmissible depending on the reason for which the complaint is filed, while the indirect goal is to revoke the enforcement action. Even though, theoretically speaking, the indirect goal should be the suspension of enforcement if the preconditions for enforcement are not met, according to the EA, the court does not have the authority to suspend enforcement on the occasion of the filled complaint.

The complaint is filled to the basic court on whose territory the enforcement, or a part of it, is carried out within three days of becoming aware of the illegalities or failure to take action, but not later than three months after the undertaken, i.e. not undertaken action. Under no circumstances, a complaint can be submitted after the expiration of 15 days from the day of issuing the conclusion for settlement of the claim. The complaints due to illegalities during enforcement are submitted in writing and should be argued and substantiated with appropriate evidence.

According to the relevant case law in North Macedonia, if the EA gives the parties and participants in the proceedings the opportunity to protect their rights or legal interests in

²⁴ They may relate to an enforceable document, to a claim for which enforcement proceedings have been initiated and to a request for enforcement

²⁵ These violations can be categorized as: violations of the rules on the scope of enforcement; violations of the principle of protection of the parties, third parties and participants in the enforcement proceedings and their families; violations of the rules of urgency and order of conduct during enforcement; violations of the rules on the order of settlement of several creditors; enforcement on assets that are exempt from enforcement or on which enforcement is limited; as well as any illegal and improper conduct of the enforcement agent in taking any action to which he/she is authorized under the provisions of the law, regardless of whether these are general provisions of the EA governing the enforcement agent's conduct when taking enforcement action at the debtor's premises or special provisions on enforcement of certain assets in order to settle a monetary or non-monetary claim.

connection with the enforcement action which they consider illegal by filing a lawsuit in civil proceedings, the complaint is considered inadmissible.

The EA provides for expeditious proceedings upon the complaint. The idea is that the challenges made by the parties or participants in the enforcement should not halt or delay the enforcement proceedings. Therefore, the court shall immediately or at the latest within 48 hours after the receipt of the complaint deliver the complaint to the enforcement agent, who shall be obliged to give a response within 24 hours. If the court deems it necessary to hear the parties, the participants and the enforcement agent before the court, the summons in which the date and time of the hearing are determined shall be submitted together with the complaint.

The competent judge determined by the annual work schedule of the court, decides on the complaint within 72 hours from the expiration of the time limit for response of the enforcement agent, regardless of whether the opposing party timely responded to the complaint or stated that it does not dispute it. If the judge finds the complaint grounded, he/she shall issue a decision determining the committed illegalities and putting out of force taken enforcement actions, or shall determine failure to take certain enforcement action. However, deciding on the merits of the complaint, the court is not authorized to suspend enforcement or order/oblige the enforcement agent to take enforcement action.

The party, the participant or the third party, as well as the enforcement agent have the right to file an appeal against the decision of the basic court to the appellate court on whose territory the basic court is located.²⁶ The appeal is submitted to the basic court that issued the decision on the complaint within three days from the day of receipt of the decision on the complaint. A copy of the appeal shall be served on the opposing party, who may file a response to the appeal within three days. The appeal does not have suspensive character except in cases expressly provided for in the EA. Upon receipt of the response to the appeal or upon expiration of the deadline for response, the case shall be submitted immediately, and no later than within three days, to the appellate court, which is obliged to decide on the appeal within five days. When deciding on the appeal, the appellate court may confirm the decision or change it. The appellate court does not have power to revoke the decision and return the case to the basic court.

The decision of the appellate court is final, and no further recourse (revision or reopening of the procedure) is allowed.

1.5. Postponement, suspension and termination of enforcement

According to the EA postponement of enforcement is possible at the request of the creditor. The creditor may request postponement for a certain period of time period at most twice in a total

²⁶ Art. 87 of EA.

duration of 30 days.²⁷ The president of the court may, at most once, at the request of one of the parties or participants, postpone the enforcement for a certain time, but not longer than 90 days.

²⁸ In the decision postponing the enforcement the president of the court is obliged to indicate the start date and the end of the postponement. Given the facts in the case, the president of the court may condition the postponement by depositing a guarantee, in the amount of the value of the principal claim. The parties and participants may file an appeal against the decision for postponement, but the appeal has not suspensive effect. The actions taken until the postponement remain in force. After the expiration of the time for which the enforcement is postponed, the enforcement agent shall continue with the enforcement, without special request from the creditor.²⁹

Regarding suspension of enforcement, according to EA, there are certain situations when the enforcement is suspended: 1) when a party or her legal representative dies during the enforcement; 2) when legal consequences from an opening of a bankruptcy procedure have occurred in cases when the party is a legal person. The enforcement agent notifies the heirs of the party for the suspension of the enforcement if they are known and if their place of residence is known, as well as the opposite party.³⁰

EA provides numerous situations that result in termination of the enforcement. For example, the enforcement agent will terminate the enforcement *ex officio*: 1) if the enforcement title is repealed, altered, nullified or placed out of force or if the certificate of enforceability is revoked; 2) if the enforcement agent is exempt from further enforcement; 3) if the creditor requested postponement of the enforcement more than twice. Also, the enforcement agent will terminate the enforcement in cases when the party which is a legal person does not exist anymore due to the conclusion of bankruptcy proceedings and deletion of the bankruptcy debtor from the commercial or other register. Another case of termination of enforcement is when the debtor presents to the enforcement agent a proof that the claim is paid in full. In such case, the enforcement agent will ask the creditor to refer in writing on the further course of action upon the request for enforcement. If the creditor does act within eight days from the receipt of the request of the enforcement agent, the enforcement agent will terminate the enforcement. EA also stipulates situations that result in termination during a particular enforcement, for example, during enforcement on movables, enforcement on immovable property, or enforcement on a bank account of the debtor³¹

²⁷ In cases when the enforcement is postponed at the request of the creditor, the creditor does not lose the acquired order for primary refund at the time of the submitted request for enforcement.

²⁸ The EA omitted to specify the competent court. However, it should be the basic court in whose territory the enforcement or part of it is carried out.

²⁹ See Art. 91 and 92 of EA.

³⁰ Art. 30 of EA.

³¹ See art. 111, 178 and 213 of EA.

1.6. Counter enforcement

When enforcement has already been carried out, the debtor is entitled to request from the court to instruct the creditor to return what he/she obtained with the enforcement if the enforceable title was repealed, altered, annulled or placed out of force or if the debtor fulfilled the claim of the creditor before commencement of the enforcement (counter enforcement).

The counter enforcement can be requested within 30 days from the day when the debtor learned about the existence of reasons for counter enforcement, but in any case, within one year from the completion of enforcement. The debtor cannot recover his claim in civil proceedings before the one-year term has expired.

The motion for counter enforcement will not be granted if there are such factual or legal changes on the subject which prevent the creditor to return what he/she has obtained during enforcement. In such case, the debtor can exercise his/her right in civil proceedings before the expiration of the previously mentioned term of one year.

After submission of the motion for counter enforcement, the court will serve the motion to the creditor asking him/her to submit response within eight days from the day of the service. If the creditor contests the motion, the court will render a decision deciding on the motion. The court can also schedule a hearing if needed. If the creditor does not submit an answer, submits an answer untimely, or states that he/she does not oppose the motion, the court grants the motion and orders the creditor to return to the debtor what he/she received as result of the enforcement within fifteen days. Such decision is enforced according to the EA, i.e. the procedure is the same as in any other enforcement.

1.7. Objects and exemptions on enforcement

Enforcement for the purpose of settling a monetary claim cannot be carried out on objects or rights that are absolutely necessary to satisfy the basic living needs of the debtor and the persons whom he/she is obliged by law to provide support, or for performing self-employment activity that is the debtor's main source of funds.

According to the EA, the subject of enforcement for the purpose of settling a monetary claim may be any debtor object, property right and real estate registered in the Real Estate Cadastre, which is not exempted from the enforcement by law or to which the enforcement is not limited by law.³² The EA contains special rules on exemption or limitations regarding the specific subject of enforcement (e.g. movables, real estate, pecuniary claims, such as salary, pensions, social security

³² Art. 25 of EA.

allowance etc) in order to ensure that the debtor will always be able to provide for his own cost of living, as an underling principle of the EA.

With regards to debtors' movable property, the objects that are for personal use or of a personal value are exempt from enforcement. Namely, enforcement cannot be carried out on debtors' clothes, shoes, underwear and other items for personal use, bedding, dishes, furniture and other items of ordinary value that serve for the basic needs of the household; on food and firewood for the needs of the debtor and the members of his household for three months; books and other objects of the debtor who performs scientific, artistic work, or other professional activity; cash up to the monthly amount which is exempted by law from enforcement; medals, wedding ring, personal letters, manuscripts and other personal writings of the debtor, as well as family photographs; aids for disabled persons. Also, working and breeding livestock, agricultural machines and other working tools, seeds, animal feed, machines and other objects of the farmer or craftsman necessary for his/her economic activity to the extent that is necessary to maintain a minimum income for his maintenance and for the maintenance of his family members cannot be objects of enforcement.

When enforcement is carried out on debtor's monetary claims, there are not only exemptions but also certain limitations to the enforcement. In that regard, the following claims are exempted from enforcement: 1) income on the bases of legal maintenance, compensation for damage due to health issues, reduction and loss of working ability and compensation for loss of maintenance due to the death of the provider; income on the basis of compensation due to physical damage; income from rights of financial help from social protection; income on the basis of temporary unemployment; income from the rights of children's protection; income on the basis of scholarship, credit or financial help of pupils and students; income of the cadets at the Military Academy; income for the work of a convicted person in a penitentiary, income on the basis of travel expenses, income from rights to social security for the elderly; funds paid as humanitarian aid or compensation for damage in situations caused by natural disasters; and assets on the special bank account of the enforcement agent.³³

As for the limitations of enforcement on monetary claims of the debtor, the EA stipulates that enforcement on salary and pension for a claim on the basis of legal maintenance, compensation for damage due to health issues or reduction and loss of work ability and compensation for loss of maintenance due to death of the provider, can be carried out up to the amount of one half (1/2), and for claims on another basis, up to the amount of one third (1/3) of the salary or pension. As an exception, for citizens that are recipients of salary up to the average salary and pension up to the amount of the average pension, enforcement is carried out up to one fifth (1/5) of the salary or pension. The stated limitations also apply to the income of persons in the reserve composition of the army and the police. Enforcement on incomes of military disabled persons on the basis of

³³ See art. 116 of EA.

disability allowance can be carried out up to the amount of one half of that income only for claims on the basis of legal maintenance, compensation for damage due to health issues or reduction and loss of work ability and compensation for loss of maintenance due to death of the provider.

As for the debtor's real estate, agricultural land and farm buildings of an agriculturalist to the extent required for his/her support and the support of his/her family members and other supported persons may not be an object of enforcement. This exemption cannot be applied if the enforcement is carried out for collection of monetary claims secured by contractual lien on real estate (mortgage).

When enforcement is carried out on the property of legal entities for collection of monetary claims, the EA stipulates exemptions and limitations regarding certain objects. Namely, enforcement cannot be carried out on objects outside of traffic, nor mineral wealth and other natural resources, nor on objects, armaments and equipment intended for defence, state and public security and for enforcement of sanctions.

When the state appears as a debtor, the EA stipulates that the enforcement can not be carried out on claims of the state and the local government units and funds based on taxes, contributions and other fees. Furthermore, an enforcement for collection of monetary claims cannot be carried out on objects and rights of the Republic of North Macedonia and its authorities, the units of local government and public enterprises if they are necessary for performance of their activities and tasks. Which objects and rights are necessary for the performance of the debtors' activities and tasks is determined by the president of the court on which territory the enforcement is carried out.

EA contains a separate provision on enforcement on property of a foreign state. It is set forth that the enforcement on the property of a foreign state in North Macedonia cannot be carried out without prior consent of the Government of North Macedonia on the proposal of the Ministry of Justice, unless the foreign state has expressly agreed to enforcement.³⁴

1.8. (Court) penalties and fines

According to EA, certain non-monetary claims are enforced by imposing fines in case the debtor does not perform the action requested in the enforcement order (enforcement of obligations to act, refrain from acting or suffer action when the action can be performed only by the debtor). The fines are restricted by the maximum amount which can be imposed upon the debtor. If the debtor does not fulfil the obligation within a specified time period, the court imposes a fine that varies from 20.000 to 80.000 denars (350 to 1350 EUR) for a natural person or from 100.000 to 30.000.000 denars (1600 to 488.000 EUR) for legal person. The amount from the fines is income in the state budget. Against the debtor who, despite the imposed fines does not fulfil his/her obligation the

³⁴ Art. 9 of EA.

court will continue to impose the fines until the total amount of fines reaches ten times the amount of the first fine that was imposed.

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

Under the EA the debtor is obliged at the request of the enforcement agent to provide his identification data which are relevant exclusively for the needs of enforcement (EMBG, EMBS, EDB, residence or domicile, seat), as well as to present all necessary data for his personal property, income and rights, necessary for the enforcement of the enforceable title.³⁵ At the same time, EA provides for the obligation for certain entities to cooperate with the enforcement agent.³⁶ In an effort to ensure the smooth conduct of the enforcement, the enforcement agent has a right to access to information and data from the employer, banks, notaries, public books and registers for a specific debtor.

Given that in the era of electronic access to information, this right can be easily exercised via electronic communication with the information holder, the EA provides that the enforcement agent is obliged electronically to request data for specific debtor from the records kept by the state administration authorities, or by a legal entity that keeps such record. They are obliged to provide electronically the requested data to the enforcement agent immediately, but not later than 3 days after receiving the request. Moreover, EA provides for electronic connection of enforcement agents with other entities. Namely, before starting work, the enforcement agent has an obligation to connect electronically with the Agency for Real Estate Cadastre, the Clearing House, banks, the Central Registry, the Registry Office and the Ministry of interior, and to electronically submit order, minutes, conclusions and other acts that arise from his/her work on a specific case.³⁷

2. Part II: Organization of Enforcement

2.1. The status of the enforcement agent

EA specifies the enforcement agent as a person who performs public authorizations determined by law, appointed by Ministry of Justice in accordance with the EA, who conduct the enforcement.³⁸ This public authority status is further reflected on many aspects of the profession.

³⁵ Art. 26 of EA. For providing incorrect or incomplete data or not providing data on the property, income and rights, the debtor and the responsible person in the legal person, when the debtor is legal person, are liable as for giving a false statement in a court procedure.

³⁶ Art. 41 of EA.

³⁷ Art. 36(10) of EA.

³⁸ See Art 32(1) and Art.3(1) of the EA.

First of all, it is the question in regard to the access to the enforcement agent's profession. It should be stressed that access to this legal profession³⁹ is not driven by market conditions and open to broader competition, but is highly regulated. The overall number of enforcement agent is fixed (so-called *numerus clausus system*) and traditional framework of limited competition within the area of territorial competence is retained. Namely, the enforcement agents are appointed for the territory (area) of a basic (primary) court. The formula for determining the number of enforcement agent is as follows: the number of enforcement agents for the territory of a basic court is determined by the Minister of Justice on the basis of previously obtained consent from the Government of North Macedonia, taking into account the opinion of the president of the basic court on the number of final and enforceable decisions of the basic court and the data provided by the Notary Chamber of North Macedonia on the number of enforceable notarial titles, as well as the opinion of the Chamber of Enforcement Agents.⁴⁰ The aim is to make the number of enforcement agents in a certain territory correspond to the number of potential enforcement cases.

The enforcement agents are financially independent from the state, as they are remunerated by fees, but they are efficiently sheltered against the market risks by the system of proportionate and also the system of fixed fees.

In order to enforce the professional rules and standards, the enforcement agents are organized in their own professional organization- Chamber of Enforcement Agents.

2.1.1. Access to the profession

The enforcement agents are recognized as a separate legal profession with the highest standards in terms of legal and professional background and appropriate process of selection. The enforcement agents are appointed by the Ministry of Justice on the basis of a public competition. As for the professional qualifications of the enforcement agents, the system provides for highly qualified enforcement agents, which include a university law degree, a special enforcement agent exam (and bar exam as well) and an appropriate work experience in legal matters.

According to EA, the required conditions for appointment of an enforcement agent are as follows: 1) to be a citizen of the Republic of North Macedonia; 2) to have working capacity and be in good general health condition, which is ascertained by a certificate issued from a competent health institution in the field of occupational medicine; 3) to be graduated lawyer with completed four years of legal studies or a graduated lawyer with acquired 300 credits according to the

³⁹ According to Article 39 of the EA of 2016, the duty of enforcement agent is incompatible with the performance of other activities and functions. The enforcement agent cannot perform public functions or managerial, supervisory and administrative functions in trade companies, state institutes and funds, political parties, collection services, trade activities, intermediary, notary public or attorney activities. Furthermore, the enforcement agents cannot be employed by a religious community or religious group. These restrictions do not refer to performing scientific, artistic and educational activities, the work of a court interpreter, as well as performing activities in the Chamber and International associations of enforcement agents.

⁴⁰ Article 32(4) of EA of 2016.

European Credit Transfer System (ECTS); 4) to have passed bar exam; 5) to have passed exam for enforcement agents; 6) to have working experience on legal matters at least five years after completing legal studies VII/1 degree or 300 credits of legal studies according to the European Credit Transfer System (ECTS); 7) to have active knowledge of the Macedonian language; 8) not to be convicted by final court decision to an unconditional sentence of over six months imprisonment, or not to be banned from practicing his profession as an enforcement agent; 9) to give a statement before a notary public that he/she will provide the equipment and the facilities required and appropriate for carrying out enforcement actions; and 10) to give a statement before a notary public about his/her property condition, with all the consequences for giving a false statement.

The enforcement agent is appointed by a decision of the Ministry of Justice on the basis of a competition. The competition is announced by the Ministry, and it is carried out by the Chamber of Enforcement Agents, which for this purpose forms a commission consisting of five members, of which two members are from the Chamber, one member from the Judicial Council of the Republic of North Macedonia, one member from the Academy of Judges and Public Prosecutors and one university professor from the law faculties accredited in the Republic of North Macedonia.

Applications are submitted in writing to the chamber of Enforcement Agents. The Chamber is obliged to submit the received applications to the minister with its opinion, no later than 15 days from the date of end of the competition. the Commission of the Chamber does not conduct a complex evaluation ranking, but only checks whether the applicants/candidates meet the preconditions for appointment, and after that all the applications, attached with the opinion of the Commission are submitted to the Minister of Justice. The opinion of the Commission is not binding; hence, the Minister of Justice has a broader discretion regarding appointment of enforcement agents.

2.1.2. Competences, powers and jurisdiction of enforcement agents

As a person with public authorizations, the enforcement agent is competent to conduct the enforcement. Other than conducting the enforcement, the enforcement agent can perform other actions if provided by the law.

The powers of enforcement agents are defined in the following way: 1) receives requests for enforcement; 2) performs service of court documents on the basis of court decision according to the Litigation Act; 3) performs service of orders, minutes, conclusions and other documents that are related to his work; 4) conducts personal identification of the parties and the participants in the enforcement; 5) collects data on the property condition of the debtor for the purpose of the enforcement; 6) issues orders and conclusions, creates minutes, requests and official notes in accordance with the provisions of the EA; 7) conducts inventory, evaluation, seizure and sell of movable assets, rights and real estate, receives assets from the debtor, transfers into possession; 8) allocates assets from enforcement; 9) sells movable and immovable property and carries out enforcement on other property rights in bankruptcy proceedings, at the request of a bankruptcy

trustee, except for the sale of the business venture; 10) performs blocking of movable and immovable objects in order to disable their usage or disposal, by placing an enforcement agent seal; 11) performs evictions and other enforcement actions necessary to carry out the enforcement that are regulated under the law; 12) performs the announcing in the media; 13) files requests for appointing guardians to the Center for Social Work, for special cases when the address of the debtor is unknown or he/she does not have a representative; 14) submits a request to retrieve data for having a bank transaction account to the legal entity that runs register of transaction accounts in connection with the subject of the enforcement; 15) gives notice of the condition of a case at the request of the parties; 16) undertakes other actions related to the matters entrusted by the court; 17) undertakes actions for providing material evidence as a entrusted work by the court; 18) issues a certificate for settlement of the claim; and 19) undertakes other activities provided by the law.⁴¹

As was previously mentioned, the enforcement agents are appointed for the territory of the particular court (basic court) and enforce enforceable titles of the court, notary or the body whose seat is located in territory for which they are appointed. However, their jurisdiction is not territorially limited. During the enforcement the enforcement agents can carry out enforcement actions also outside the territory of the court for which they are appointed, i.e. on the whole territory of North Macedonia.

Before starting work, regardless of the regular account, the enforcement agent should open a special account with one of the payment operations holders, specifically intended for depositing funds collected on behalf of creditors. The special account of the enforcement agent may not be subject to enforcement against the enforcement agent as a debtor.

2.1.3. Termination of enforcement agent duties

The grounds for termination of enforcement agents duties are as follows: 1) death - on the day of death of the enforcement agent's; 2) if he/she have reached the age of 64 in accordance with the law; 3) at his/her request- with the expiration of the time limit determined in the request for termination of the service; 4) if he/she is sentenced by a final court decision to unconditional imprisonment of more than six months- with the finality of the criminal conviction; 5) if he/she is sentenced with- a ban on performing the duty of enforcement agent - on the day of finality of the court's decision; 6) if a disciplinary measure by a decision of the Disciplinary Commission has been imposed on him/her- permanent deprivation of the right to perform the duty of enforcement agent - on the day of the finality of the decision of the Disciplinary Commission; and 7) with dismissal- with the finality of the decision for dismissal.

⁴¹ Art. 40 of EA, as amended in 2018.

2.1.4. Liability of enforcement agents

The enforcement agent is subject to several types of liability: liability for damages, disciplinary liability and criminal and misdemeanor liability.

The liability of enforcement agents for damages caused by irregular enforcement actions or by the failure to enforce is regulated in a standard way. Under the EA, an enforcement agent shall be liable for all damage he/she has caused to the party or to third parties by illegally carrying out the enforcement actions and by not fulfilling the duties he/she has according to the law. The enforcement agent shall not be liable for caused damages if the illegality or non-fulfilment liability is not determined in a procedure upon complaint due to illegalities during enforcement under Article 86 of the EA. The enforcement agent is also liable for the damages resulting from conducting of particular actions by his deputy or assistant or by another person employed by him.

The enforcement agent has to be insured against liability for damages. The lowest amount of insurance for which the enforcement agent must enter into a contract for insurance is 100.000 EUR, and he/she is obliged to submit proof to the Chamber of Enforcement Agents for each concluded contract for liability insurance immediately after concluding it.⁴² The President of the Chamber is obliged to inform the Ministry of Justice of the enforcement agent who has not concluded a contract for insurance and has not submitted the proof of the concluded liability insurance contract to the Chamber, within 30 days after the expiration of the insurance policy.

The disciplinary liability of the enforcement agent is independent of other types of liability. The disciplinary mechanism plays an important role in ensuring the accountability of the enforcement agents for their actions. It is considered to be an additional guarantee that the enforcement agent will perform his/her professional vocation in accordance with the law, and the highest ethical and professional standards and preserving the reputation and honor of the enforcement profession. According to EA, disciplinary liability is a responsibility to which an enforcement agent is subject in cases when he/she acts in a manner that is qualified as unprofessional and negligent by law, bylaws and acts of the Chamber of Enforcement Agents which regulate the work of enforcement agents. In addition, the EA defines what constitutes unprofessional or negligent action by the enforcement agent. In that regard, an unprofessional conduct is a violation of the law by which the enforcement agent caused damages or a violation of the rights of the parties to the proceedings or to third parties, while the negligent conduct is acting contrary to the Code of Professional Ethics of Enforcement Agents and obligations in the Statute and other general acts of the Chamber.⁴³ The provisions for disciplinary liability of an enforcement agent also applies to the deputy enforcement agent for the violations committed at the time when he/she replaced the enforcement agent. The EA contains provisions on the Disciplinary Commission of the Chamber of Enforcement Agents, the initiation and course of procedure and rulings of the Disciplinary Commission, as well as on the

⁴² The failure of the enforcement agents to act accordingly considered to be disciplinary violation for which a disciplinary measure of fine or temporary deprivation of the right to perform the duty of an enforcement agent may be impose (Art. 65(1) line 19 of EA).

⁴³ Article 57 (2) and (3) of EA.

types of disciplinary measures. It also regulates the execution of disciplinary rulings, the statute of limitations for initiating disciplinary procedure and the deletion from the Registry of enforcement agents.

2.2. Supervision over enforcement

Within the current regulatory framework in North Macedonia, the supervision and control of enforcement is undertaken by three different bodies: the Ministry of Justice, the Chamber of Enforcement Agents and the court. While the Ministry of Justice and the Chamber of Enforcement Agents have powers to conduct supervisions/inspections, the court has a jurisdiction to control lawfulness of the actions carried out by the enforcement agents. It only deals with individual cases, when deciding upon the complaint due to illegalities in enforcement, where the integrity of the enforcement proceedings is at stake. Where disciplinary proceedings are required, the Chamber of Enforcement Agents has a Disciplinary Commission that deals with the cases. However, the disciplinary case may come before the competent administrative court, since the enforcement agent has the right to initiate an administrative dispute against the decision of the Disciplinary Commission.

Ministry of Justice supervises the work of the enforcement agents, whereby pays attention to the following issues: 1) keeping the records of the enforcement agent in accordance with the law and bylaws; 2) keeping the official records and data; 3) order of filing the cases in the Register of requests for enforcement; 4) monitoring of the enforcement agent's conduct regarding the order of request for enforcement; 5) orderly and timely scanning of the subject files which do not result from the conduct of the enforcement agent; 6) proper insurance by the enforcement agent for damages; 7) orderly and timely keeping of records for case processing fees, costs, actions taken and the enforcement agent's reward, as well as for the collection of principal debt, interest on principal debt and procedural costs with interest; 9) realization of the legal obligation to appoint a deputy enforcement agent; 10) realization of the obligation to issue authorization to the deputy to dispose of its regular and special account; 11) acting of the enforcement agent upon a request of a party for preparation of a calculation for receivables collection, interest, case processing fee, expences for actions carried out, the enforcement agent's fee (award), as well as the real costs and fees incurred in enforcement; 12) the conduct of the enforcement agent regarding the decisions of the courts rendered on complaint and request for postponement of the enforcement; 13) implementation of the conclusion for postponement of the enforcement upon request of the creditor; 14) orderly and timely acting upon the motions of the parties, courts and state bodies; 15) transfer of funds of the performed enforcement from the special enforcement agent's account on the transaction account of the creditor; 16) return of the funds obtained from the performed enforcement by the special enforcement agent's account on the transaction account of the debtor in case of cancellation, alteration, annulment or repeal of the enforceable document or putting out of force of the enforcement action for which the funds were collected; and 17) preparation of the reports for its work in accordance with the provisions of the EA.

The Ministry of Justice also supervises the work of the Chamber of Enforcement Agents, paying attention on the following issues: 1) orderly and timely keeping of the records that the Chamber of Enforcement Agents keeps in accordance with the EA and bylaws; 2) orderly and timely keeping of the records of the Disciplinary Commission and compliance with the time limits set by the law for the preparation and submission of disciplinary decisions; 3) compliance with the obligations of the Chamber determined by law and bylaws; and 4) orderly and timely acting upon submissions of parties, courts and state bodies.

The Ministry of Justice is obliged to inform the enforcement agent and the Chamber of Enforcement Agents, at least three days before the day of performing the supervision. Supervision is performed in the presence of the enforcement agent, who is supervised or in the presence of the President of the Chamber of Enforcement Agents or a person authorized by him, if the supervision is performed over the work of the Chamber. The supervision is performed by a commission composed of at least two representatives of the Ministry of Justice, authorized by the Minister.

The Ministry of Justice may perform extra-ordinary field supervision (i.e. on-site inspection) over the work of the enforcement agent and the Chamber of Enforcement Agents. Subject of such supervision is always a specific case and it is performed upon a complaint of a party, a third party or a participant in the enforcement procedure, or at the request of the president of the court, state body or legal entity. The on-site inspection is conducted by a commission composed of representatives of the Ministry of Justice, authorized by the Minister. The aforementioned provisions of the EA in regard to the organization, the notification and the manner of performing the so-called regular supervision are applied to the extraordinary field supervision as well.

When performing the supervision, the enforcement agent or the President of the Chamber of Enforcement Agents are obliged to provide access to the premises, books, case files and the entire records of the enforcement agent or the Chamber of Enforcement Agents, respectively. They are responsible for the accuracy of the data and documents presented during the supervision.⁴⁴ On the other hand, the secrecy and confidentiality of the document are guaranteed by law: the secrecy of the documents and classified information, as well as the confidentiality and protection of personal data must not be violated during the supervision.⁴⁵

EA obliges the enforcement agent to submit quarterly reports and annual report for its work. The aim is to provide relevant data for monitoring both enforcement process and financial flow within the enforcement agents' office. The quarterly reports are submitted electronically to the Ministry of Justice for the work of the enforcement agent no later than 10 days after the end of the quarter. An annual written report is submitted to the Chamber of Enforcement Agents for the work of the enforcement agent in the previous year, no later than March 15 of the current year. It contains the following information: a) number of received requests for enforcement; 2) number of realized enforceable documents from the received requests in the reporting year; 3) total number of realized enforceable documents; 4) amount of collected funds: fee for processing the case, costs

⁴⁴ Art. 55 (4) of EA.

⁴⁵ Art. 55 (6) of EA.

for undertaken actions and reward for the realized enforceable documents; 5) amount of costs for work of the enforcement agent; and 6) the realized net profit of the enforcement agent. In addition to the written report, the enforcement agent is obliged to submit a copy of the final account submitted to the Public Revenue Office.

The Chamber of Enforcement Agents submits a summary annual report to the Ministry of Justice no later than April 1 for the work of all enforcement agents, which contains the aforementioned data.

Regarding the judicial control over enforcement, it should be stressed that of all mechanisms of supervision and control, as regards the legal and correct conduct of the enforcement agent during the enforcement, the control performed by the court is the most important one, as it has the capacity to invalidate illegal and irregular actions of enforcement agents. As a particular type of control, a judicial control over the work of enforcement agents is exercised through the possibility of filing a complaint (or objection) due to illegalities during the enforcement.⁴⁶

2.3. Access to the premises

When performing enforcement actions at the debtor's residence, during search of his/her clothing that he/she is wearing and during other enforcement actions, the enforcement agent is obliged to proceed with due respect for the person of the debtor and his or her household members. In order to undertake any activity at the debtor's residence, who is a natural person, the enforcement agent must provide a one-time written permission for the specific activity from the president of the basic court in whose area the enforcement is carried out. Such permission does not specify the day of taking the activity and is valid until the completion of the enforcement activity. The written permission is valid for 30 days from the date of issuance.

The police and two adult witnesses have to be present during enforcement actions in the debtor's residence when the debtor, his/her legal representative, proxy or an adult member of his/her household are not present. If the lock of the apartment is changed during enforcement, the new key is left with a guardian for special cases who is appointed by the Centre for Social Affairs upon request of the enforcement agent.

The enforcement on the premises of a legal person that is unlocked is carried out in the presence of any person who happens to be there. If there is no person present, the actions are carried out in the presence of two adult witnesses. If the enforcement actions should be carried out in a premises that is locked and the debtor is not present or does not want to open the premises, the enforcement agent will open it in the presence of the police and two adult witnesses. If the representative of the legal person refuses to behave in line with the request of the enforcement agent or if the enforcement agent does not find him/her in the premises of the legal

⁴⁶ On the complaint due to illegalities during the enforcement see *supra* under 1.4.

person during the undertaking of the enforcement action, the action shall be carried out in the presence of the police and two adult witnesses. If the enforcement agent cannot secure the presence of two adult witnesses, he/she can arrange a presence of a notary public.

For every performed enforcement action, the enforcement agent draws up minutes signed by the witnesses and the police. If the actions are performed in the presence of a notary public, the notary public draws up the minutes in accordance with the Notary Public Act.

2.4. Obstructing the enforcement agent from carrying out enforcement

According to EA, the enforcement agent is authorized to remove any person who obstructs the carrying out of enforcement actions. Depending on the circumstances of each case, the enforcement agent is also entitled to request assistance of the police.⁴⁷

2.5. Time of enforcement

As a rule, enforcement is carried out every day from 06:00 to 21:00. With the permission of the basic court on whose territory the enforcement is carried out, enforcement can be carried out regardless of the afore mentioned terms.

3. Part III: Enforcement Procedure

3.1. Initiation and end of the enforcement procedure

The enforcement commences on the request of the creditor.⁴⁸ The creditor himself decides upon the enforcement agent who will enforce the enforceable document, being restricted only to fact that the enforcement agent must be appointed for the territory of the primary court whose title is being enforced. The enforcement agent directly decides upon the actions that have to be undertaken within his competence, in order to carry out the enforcement.

The request for enforcement is submitted by the creditor to the enforcement agent in writing by enclosing the enforceable document in original, or excerpt from the original, or a certified transcript of the excerpt from the original. If the enforceable document is not attached in original, the creditor also encloses a certified statement to a notary public that he has not initiated an enforcement procedure before another enforcement agent for the same enforceable document.⁴⁹

The enforcement agent cannot refuse to carry out the enforcement, except in the case where the conditions for his/her recusal are fulfilled, or if he/she is aware that the same enforcement title

⁴⁷ Art. 82 Of EA.

⁴⁸ Art. 2(3) of EA.

⁴⁹ Art. 28(1) of EA (as amended in 2018), and in connection with Art. 2(3) of EA.

is enforced by other enforcement agent. According to the law, during the enforcement the enforcement agent is obliged to act immediately and to take the cases to work in the order in which they were received, unless the nature of the claim or special circumstances require that it be treated differently for which it is obliged to compile an official note.⁵⁰

EA stipulates the obligation for the enforcement agent to keep a Register of received request for enforcement in electronic form.⁵¹

Once submitted, the request for enforcement may be withdrawn by the creditor during the procedure, in whole or in part. Consequently, the enforcement agent shall stop the enforcement. Yet, the withdrawal does not affect the running of the statute of limitations. The enforcement agent has the power to refuse such withdrawal, if it means abuse of the right of the creditor. After withdrawing the request, the creditor may submit a new request for enforcement.⁵²

While carrying out the enforcement, the enforcement agent undertakes particular enforcement actions for collection of creditors' claim. The enforcement is commenced with the undertaking of the first enforcement action, and is terminated with the full settlement of the creditor's claims. After the creditor commences the enforcement procedure, the enforcement agent carries out the enforcement *ex officio*. Which enforcement actions will be conducted by the enforcement agent depends on the particular enforcement procedure, on the type of claim (monetary or non- monetary), and the particular means and objects of enforcement.

3.2. Enforcement against movable assets to settle pecuniary claims

According to EA, the enforcement against movables to settle pecuniary claims is carried out by inventory, assessment, seizure and sale of the movable assets and settlement of the creditor from the amount obtained from the sale.

Before proceeding with the inventory, the enforcement agent shall order the debtor to pay the amount determined in the enforcement title, together with the interest and costs. The enforcement order contains the following: 1) name of the debtor, his/her residence, unique identity number of the citizen or tax number; 2) creditor's name, his/her residence; 3) number of the enforcement title and the authority that issued it; 4) amount owed as main debt; 5) additional claims; 6) costs of the procedure and of enforcement; 7) prohibition of disposal; 8) time limit of three days for payment of the debt, 9) place of inventory; and 10) manner of undertaking the inventory.

⁵⁰ Art. 6 (1) of EA.

⁵¹ Art. 45 of EA. The Register is kept in electronic form, neatly and in a timely manner, upon receipt of the request or undertaking of each individual enforcement action. The Register is run on software that allows tracking of each individual entry of data, protected from unauthorized changes in accordance with the regulations of electronic data protection. In the Register, the same data as the data contained in the files, for each individual action taken in the case and all case files in scanned form are entered.

⁵² Art. 29 of EA.

The enforcement order must indicate to the debtor that if he/she has settled the debt to the creditor in accordance with the enforcement title, he/she is obliged to notify the enforcement agent immediately. Also, the debtor is warned that if he does not act in accordance with the enforcement title within the period determined by the order, an inventory, assessment and seizure of movable objects will be carried out.

The creditor is notified of the time and place of the inventory, if he requests it. The absence of the creditor or the debtor does not prevent the inventory to be performed.

The inventory can be carried out on objects that are property of the debtor, as well as his/her objects that are in possession of the creditor. The assets that are in possession of a third person may be inventoried only with consent of that person. Regarding the scope of the inventory, as many objects as it is necessary to settle the creditor's claim and the enforcement costs will be listed.

As for the safekeeping of the objects, they are left with the debtor, except in cases where the enforcement agents, upon a creditor's request, order the safekeeping to be performed by the creditor or a third person. The objects that are left with the debtor, must be clearly marked to indicate that they are covered with the inventory. Cash money, securities and other valuables are deposited in a court deposit.

The debtor is banned from disposing with the objects that are covered with the inventory.

The creditor gets the right of pledge over the inventoried items.

The assessment of the objects is carried out by licensed evaluator.

The following methods of sale of movable items are available: oral public sale and direct settlement between the buyer and the enforcement agent. If the items are of a value equal to or less than 5.000 EUR the sale is carried out by direct settlement, otherwise it is carried out by oral public sale. In such case, potential buyers must deposit a guarantee. The guarantee is one tenth of the determined value of the real estate. The guarantee is paid within the period determined by the enforcement agent. Bidders whose offer is not accepted will have their guarantee returned immediately after the termination of the public auction.

Certain persons are exempted from buying attached real estate: the debtor, the enforcement agent and any person who exercises official duty in the procedure of sale.

The public sale of the items is announced in the means of public information at least seven days before the holding of the public auction. The creditor and the debtor are notified of the place, day and hour of the sale.

At the first oral public auction, the initial selling price for the items is the estimated value of the items. If the items are not sold at the first public auction, the enforcement agent will determine a second public auction at which he can reduce the selling price by a maximum of 1/2 of the estimated market value. If the objects are not sold even at the second public auction within eight

days, the creditor may propose that the sale be carried out by direct settlement for a sale price determined as for the second public sale.

There are certain cases of termination of enforcement if the sale of the items failed. In that regard, the enforcement agent shall terminate the enforcement against the unsold items if: 1) the items could not be sold at the second public auction; 2) the creditor did not propose a sale by direct settlement within eight days after the second public auction; 3) the sale by direct settlement was not carried out within 60 days upon the creditor's proposal.

The buyer shall pay the sale price immediately after the end of the public auction. If the sale price is not paid within the set time limit, the public sale has failed. The buyer becomes the owner of the item by their handover.

Regarding the settlement of the creditors in enforcement proceedings generally, the order of settlement of creditors is different depending on the number of creditors that are expecting to settle their monetary claim from the same debtor and on the same asset subject of enforcement. In that regard, distinction is being made between provisions that regulate the settlement of single creditor and provisions that regulate the settlement of several creditors. There are slight differences in the order of settlement of creditors and the order in which particular claims are being settled from the selling price in terms whether the enforcement is carried out on movable or immovable objects.

As for the settlement of the creditors in enforcement against movable assets, if there is only one creditor, his/her claims are satisfied in the following order: the enforcement costs, the interest of costs determined in the enforcement title, the costs determined in the enforcement title, the interest up to the date of sale of the objects and the main claim. The priority order of the creditors that have to be paid from the sale revenues depends on the time a creditor gained pledge on the sold movable items. Creditors with pledge shall be satisfied by order of priority. The costs and interests of the enforcement creditor have the same rank as his/her main monetary claim. If there are more creditors with the same order of settlement, they will be settled proportionally in their amount, if the amount earned through sale of the movables is insufficient for complete settlement.

3.3. Attachment on the bank accounts of the debtor

Regarding attachment on the bank accounts of the debtor, EA stipulates different rules depending on whether the debtor is natural person or a legal person.

When the debtor is a natural person, the enforcement against monetary claim from a bank account of the debtor is carried out by ordering the bank to pay the amount for which the enforcement order was issued to the separate account of the enforcement agent. Simultaneously with delivery of the enforcement order to the bank, the enforcement agent is obliged to inform the debtor regarding the issued enforcement order.

The enforcement agent is obliged to keep the paid funds on his/her separate account for 15 days after the transfer of the amount from the debtor's bank account. In this time period the debtor has the right to present to the enforcement agent the existence of grounds for limitation or exemption from enforcement. If the debtor fails to do that, the enforcement agent will immediately make a payment of the funds to the creditor. In case the debtor presents proof for existence of grounds for limitation or exemption from enforcement, the enforcement agent will immediately make a payment of the appropriate amount, respecting the provisions provided in the EA for limitation and exemption from enforcement, and the rest of the funds will be returned to the debtor.

When a legal person appears as a debtor, the enforcement for collection of a monetary claim may be carried out against all the funds on its accounts at the payment operations holder where the debtor has accounts.

The payment operations holder (e.g. a bank) shall carry out the collection according to the time of reception of the enforcement orders. He is obliged to keep records of the sequence of the enforcement orders according to the day and time of their receipt and upon creditor's request to issue a confirmation of the place of his/her claim in that order. The payment operations holder cannot enforce a payment order requested from the debtor prior to the collection of the claim specified in the enforcement order.

Regarding the enforcement order in these cases, the enforcement agent in the order appoints one of the holders of payment transactions where the creditor and the debtor have accounts. With the enforcement order the holder is ordered to transfer the amount for which the enforcement is carried out from the debtor's account to the separate account of the enforcement agent. The enforcement agent is obliged to service the enforcement order to the debtor after the enforcement order is recorded with the holder of the payment transactions.

If the debtor is ordered to pay periodical payments, the payments shall be carried out without issuance of new enforcement orders once they have matured.

If the creditor declares before the enforcement agent that he waives further enforcement against assets on the debtor's account, the enforcement agent will terminate the enforcement with this asset.

If, at a time when the payment transactions holder received the enforcement order, there were no funds on the debtor's account, the enforcement agent does not terminate the enforcement, and the payment transactions holder keeps the enforcement order in its records and will make a payment as soon as there are funds on the account. In such cases, the enforcement agent collects data from other payment transactions holders regarding the state of funds on the debtor's accounts. On the basis of provided proof of priority in enforcement, the enforcement agent can order any payment transactions holder to transfer certain amount from the debtor's account to his/her accounts that are maintained by the payment transactions holder who received the enforcement order.

3.4. Enforcement on immovable property

The enforcement on immovable property is carried out by recording (noting) the enforcement order in a public book (cadaster), by determining the value of the real estate, sale and settlement of the creditors from the amount obtained from the sale.

Within three days upon receipt of the enforcement order, the debtor may propose for the enforcement to be carried out with another means of enforcement or on another real estate. The enforcement agent will accept such proposal if the debtor makes it probable that the claim will be settled by other means of enforcement, or by sale of other real estate. If another means of enforcement is accepted, the notion of the enforcement order remains in force until the settlement of the creditor's claim.

By noting the enforcement order in the public book, the creditor acquires the right to settle his/her claim from the real estate (right to settlement) in case a third party acquires the right of ownership or the right to dispose with the real estate. The creditor who requested the enforcement and did not previously obtain the pledge right, by noting the enforcement order acquires the right to settle his/her claim from the real estate before the person who obtained the pledge right or the right to settle afterward.

The pledge creditor who didn't initiate enforcement shall also be settled with the enforcement against the real estate. The enforcement agent must check if there is a pledge right in favor of another creditor who did not file for enforcement.

Real servitudes do not elapse by the sale of the real estate, neither personal servitudes nor real encumbrances that are recorded in the public book prior to the rights of the pledge creditors and the rights to settlement of the creditor who requested enforcement. Other personal servitudes elapse by the sale of the real estate, unless the holders of those rights agree with the buyer otherwise.

The sale of a residential building or apartment, business building or business premises does not terminate the lease of that building, apartment or business premises. The buyer obtains the rights and obligations of the lessor. Lease agreements that are concluded after the submission of the request for enforcement by sale of the property in question do not produce legal effect.

Upon a request from a person interested to buy the real estate, the enforcement agent must provide such person with a permit to observe the immovable.

The value of the real estate is estimated by a licensed evaluator at the request of the enforcement agent. After receiving the assessment, the enforcement agent determines the value of the real estate with a conclusion.

Following the assessment of the value of the real estate, the enforcement agent renders a conclusion for the sale by oral public bidding, which determines the conditions and the time and

place of the sale. The conclusion is published in at least one daily newspaper that circulates on the whole territory of North Macedonia as well as electronically on the website of the Chamber of Enforcement Agents. A certain time period must pass from the date of publication till the date of the sale. According to EA, such time period is determined to be at least 15 days, but no more than 30 days from the day of publication.

The sale of real estate is carried out by oral public bidding or by direct settlement. The oral public bidding is held before the enforcement agent in premises that he determines. The public auction of the real estate will be held even when only one bidder is present. At any time after the first public auction have been held, the parties and the pledge creditors can agree to sell the real estate by direct settlement within a certain period.

Potential buyers must deposit a guarantee. The guarantee is one tenth of the determined value of the real estate. The guarantee is paid within the period determined by the enforcement agent. Bidders whose offer is not accepted will have their guarantee returned immediately after the termination of the public auction.

Certain persons are exempted from buying attached real estate: the debtor, the enforcement agent and any person who exercises official duty in the procedure of sale.

Regarding the selling price, at the first auction, the real estate cannot be sold below the determined value. If the immovable could not be sold at the first public auction, the enforcement agent schedules a second auction at which he can, upon creditor's proposal, set the initial price reduced by one third of the determined value at the most. A certain period must pass from the first to the second public auction, i.e. at least 15 days, but no more than 30 days. If the property is not sold after the mentioned period, the enforcement agent will decide on a new sale only upon the proposal of the creditor. The initial price in such case cannot be reduced by more than one third of the determined value. The creditor cannot submit the proposal for new sale prior to three months from the day of the second public auction nor after one year from that day.

After determining that the conditions for holding a public auction are met, the enforcement agent announces that the bidding process has started. After the concluded auction, the enforcement agent determines which bidder offered the highest price and announces that the real estate is sold to that bidder.

The buyer is obliged to pay the price within a certain time period determined with the conditions regarding the sale. If the buyer does not pay the price within the specified period, the enforcement agent will announce the sale as invalid and determine a new sale. The buyer who did not pay the sales price within the specified period will not be refunded the paid guarantee. Such funds are considered as collected funds in the execution.

After payment of the price, within eight days, the enforcement agent issues a conclusion for handing over the real estate in the possession of the buyer.

After handing over the real estate in the possession of the buyer, the next phase of the enforcement on immovable property is the settlement of the creditors.

Creditors at whose request enforcement was carried out, pledge creditors, even though they did not report their claims, persons entitled to compensation for personal servitudes and real encumbrances, competent authorities for property tax claims are settled from the sale price.

Certain claims have priority in settlement. According to EA, the costs of enforcement, the value added tax and the property tax for the last year are settled first from the amount obtained from the sale.

After settling those claims, the claims of the creditors secured by pledge, the claims of creditors at whose request the enforcement was carried out and the rewards for personal servitudes and other rights, which are terminated through the sale of real estate are settled successively.

Creditors are settled according to the order of acquisition of the right of pledge and the right of settlement for creditors who demanded enforcement, i.e. according to the order of registration in the public book of personal servitudes and real encumbrances.

The costs and interests determined with the enforcement title are calculated until the day of the division hearing and are settled in the same order as the main claim.

3.5. Enforcement against wages and other permanent pecuniary income

The enforcement against salary is carried out by issuance of an enforcement order which determines a ban over a certain amount of the salary and an order towards the employer to pay, and respectively, to be paying the creditor the amount which is to be enforced. If the debtor should pay in installments (e.g. legal maintenance), the enforcement agent, based on the same enforcement order, shall collect those payments once they mature. If the employer has received several enforcement orders against the same debtor, he is obliged to record them, keep them and execute them in the order of their receipt. The employer has the obligation to inform the enforcement agent regarding the order of payment upon such request.

The employer has the obligation to cooperate by providing information regarding the amount of the debtor's salary. If he/she fails to provide such information within a time limit set by the enforcement agent, or provides an incorrect information, the enforcement agent shall request the court to fine him. The enforcement agent is obliged to warn the employer of the consequences of not complying with the order.

When the debtor's employment has been terminated, the enforcement order shall also affect the other employer that has subsequently employed the debtor. The enforcement order is effective from the day it is delivered to that employer. The employer, where the debtor no longer works, is obliged to deliver the enforcement order without any delay to the employer where the debtor started working and to inform the enforcement agent that he/she performed such activity. In any

case, the employer is obligated to inform the enforcement agent regarding the termination of the debtor's employment without any delay, regardless whether he/she is familiar with the new employer of the debtor.

The employer is obliged to enforce the enforcement order on a regular basis. If the employer does not regularly carry out the enforcement order, the enforcement agent shall directly order the payment operation holder, where the employer has an account, to pay the amount of all the unpaid installments for which the enforcement order was issued.

The employer who does not comply with the enforcement order or fails to act in a way described above is liable for damages to the creditor.

3.6. Attachment under the debtor's debtor (debtor's claims)

Enforcement against debtor's claims is carried out by two separate actions: 1) enforcing a ban on the claim and 2) transfer of the claim. Such actions are carried out in the amount required for settlement of the creditor's claim.

With the order enforcing a ban on a monetary claim, the debtor's debtor is prohibited from settling that claim to the debtor, and the debtor is prohibited from collecting that claim or otherwise disposing of it and the pledge given for its security. With the issuance of the enforcement order, a pledge is established in favour of the creditor. The enforcement order is immediately delivered to the debtor's debtor and the debtor. Also, the order is immediately submitted to the Pledge Register for the registration of the pledge. The prohibition is considered to be effective on the day the prohibition order was submitted to the pledge register.

The enforcement agent, within the time limit he/she determines, shall ask the debtor's debtor to give a statement whether and up to what amount he/she recognizes the prohibited claim and whether he/she agrees to settle it, as well as whether his/her obligation to settle the claim is conditioned by fulfilment of some other obligation. The statement is delivered to the creditor and the debtor within 72 hours after the receipt.

If the debtor's debtor states that he does not recognize the prohibited claim or does not give a statement within the specified period, the enforcement agent shall terminate the enforcement with this particular means of enforcement. The debtor's debtor is liable to the creditor for the damage caused to him/her as a result of the debtor's debtor failure to give a statement, or for giving a false or incomplete statement.

The banned claim is transferred to the creditor, for collection or in lieu of payment.

Upon delivery of the statement of the debtor's debtor to the creditor and the debtor that he/she agrees to settle the claim, enforcement continues with an order for transfer of the claim for collection or in lieu of payment.

The transfer of the claim is effective when the order for transfer of the claim is delivered to the debtor's debtor.

The debtor is obliged, within the period determined by the enforcement agent, and at the request of the creditor to whom the claim has been transferred, to give explanations necessary to the creditor for collection of the claim and to deliver to the creditor the documents related to the claim.

By a transfer of a claim for collection, the creditor is entitled to request from the debtor's debtor to pay the amount specified in the enforcement order, to perform all activities that are necessary for retaining and collection of the transferred claim and to use the rights related to the pledge which was given as a security for the claim. The creditor is not entitled to agree on settlement regarding the claim, to forgive the debt of the debtor's debtor nor to otherwise dispose of the transferred claim, or to conclude an agreement with the debtor's debtor that a selected court should decide upon the claim if disputed.

The creditor to whom the debtor's claim was transferred for collection shall be settled to the amount in which he/she collected such claim. On the other hand, the creditor to whom the debtor's claim was transferred in lieu of payment is considered settled with the transfer itself to the amount of such claim.

3.7. Enforcement against shares

Regarding shares, according to EA, enforcement is carried out with a prohibition on disposal and their encumbrance, their sale and settlement of the creditor.

Prohibition for disposal and encumbrance on shares is carried out with delivery of an order for prohibition for disposal and encumbrance to the Depositary for Securities. By recording the prohibition, the creditor acquires a pledge right over the shares. The Depositary for Securities is obligated to record the prohibition without any delay and to inform the enforcement agent that the record was performed.

Regarding the shares that are comprised with the order for prohibition of disposal and encumbrance, The Depositary for Securities may not make any entries on disposals of the debtor. The Depositary for Security is obligated, without any delay, to notify the enforcement agent of any change with respect to the shares that are covered by the issued order, especially regarding enforcement for collection of another claim or security of such claim.

The debtor is prohibited to dispose with the shares comprised with the order for prohibition of disposal and encumbrance.

The sale of the shares is carried out by the enforcement agent through the stock exchange. The enforcement agent concludes a sales agreement for the sale of the shares with a broker on behalf

of the debtor. The enforcement agent is entitled to sign the order for sale of the shares and other related documents on behalf of the debtor.

After a successful sale, the settlement of the creditor is carried out according to the rules for settlement of creditors when the enforcement is carried against movables for settlement of monetary claim.

3.8. Other attachment procedures

EA also stipulates the manner of enforcement against other property rights. Namely, enforcement against copyrights and other related rights, industrial property rights or certain similar rights of the debtor shall be carried out by prohibiting disposal of such right, as well as by encashing it according to the provisions regarding sale of movable objects and settlement of creditors.

3.9. Handing over movable assets

Enforcement regarding handing over one or more specified movables that are found with the debtor is carried out by the enforcement agent by ordering the debtor to hand over such movables within a time limit set by the enforcement agent that cannot be longer than 30 days from the delivery of the enforcement order. If the debtor does not hand over the movables in the specified time limit, the enforcement agent proceeds with seizure of the items and handing it over to the creditor. The enforcement agent acts in the same manner in cases when the items are in possession of a third person that is willing to hand them over to the enforcement agent. If the third person does not want to hand over the objects, the creditor may request the enforcement agent to transfer the debtor's claim against the third person for handover of items.

When the items are not found either with the debtor or with a third party, upon request of the creditor, the enforcement agent, will authorize an evaluator who will assess the value of the objects and will determine a time limit in which the debtor has to pay the creditor the designated amount. Based on such conclusion, the creditor may request enforcement against the debtor. If the creditor fails to request for the debtor to pay the designated amount, the enforcement agent shall terminate the enforcement.

3.10. Enforcement in reinstatement of employee to work

The request for enforcing an enforcement title according to which the employer is obligated to reinstate the employee to work or to assign him/her with the tasks that he/she performed

previously, can be submitted within six months following the day the employee obtained the right to submit the request for enforcement.

The enforcement is carried out in accordance with the provisions of EA regarding enforcement of action that can be performed solely by the debtor.⁵³

3.11. Eviction

Enforcement for eviction and handing over a real state is carried out in a manner that the enforcement agent, in the presence of the creditor, removes the persons and objects from the real estate and hands over the real estate in possession of the creditor. Enforcement is carried out towards all persons and objects that are located at the real estate at the moment the enforcement is carried out. The eviction and handing over the real estate may be carried out upon an expiration of the time limit of eight days following the day of service of the enforcement order to the debtor.

Movables objects which should be removed are handed over to the debtor, an adult member of his/her household or his proxy. If none of the persons is present, or they refuse to accept them, the movables are handed over for a safekeeping to another person at the expense of the debtor. The enforcement agent shall notify the debtor of such handover and of the costs for the safekeeping, leaving him/her a period of eight days in which he/she can request delivering of the objects after reimbursement of the safekeeping costs.

If the debtor does not act as required in the specified time limit, the enforcement agent shall determine a sale of the movables at debtor's expense. Part of the price obtained by the sale that remains after the settlement of the cost for safekeeping and sale is deposited with a court in favour of the debtor. The sale of the objects is carried out according to the provisions of EA regarding enforcement on movables.

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

If with the enforcement title the debtor is obligated to perform an action that can also be performed by another person, the enforcement is carried out in a manner that the enforcement agent authorizes the creditor to entrust another person with such action or to perform the action by himself/herself on the debtor's costs. The creditor can propose that the enforcement agent orders the debtor to deposit in advance the amount necessary to cover the costs for the performance of such action.

⁵³ See in detail under 3.12.

If upon the enforcement title the debtor is obligated to perform an action that no other person can perform on his/her behalf, the enforcement agent will set a time limit to the debtor for fulfilment of the obligation, with a warning that in case of noncompliance within the determined time limit, within 48 hours, the court shall impose a monetary fine to him/her. If the debtor fails to fulfil the obligation within the set time limit, the enforcement agent will enforce the court decision on the fine. At the same time, the enforcement agent shall simultaneously issue a new enforcement order and set a new time limit to the debtor for fulfilment of the obligation warning him that in case of noncompliance within the set time limit, within 48 hours, the court shall impose a new fine of a higher amount than the previously imposed. Against the debtor who, despite the imposed fines does not fulfil his/her obligation the court will continue to impose the fines until the total amount of fines reaches ten times the amount of the first fine that was imposed.

The fines are restricted by the maximum amount which can be imposed upon the debtor. The fines vary from 20.000 to 80.000 denars (350 to 1350 EUR) for a natural person or from 100.000 to 30.000.000 denars (1600 to 488.000 EUR) for legal person. The amount from the fines is income in the state budget.

As for the obligation to refrain from acting or suffer action, the enforcement is carried out in the same manner as described above regarding the obligation to act that can be performed solely by the debtor.

If the enforcement is completed based on an enforceable title, issued upon a claim due to disturbance of possession, or if the debtor has voluntarily fulfilled his or her obligation, and after this the debtor obstructs the possession again (similarly to the previous disturbance), the court can enforce the same enforceable title once again upon the creditor's request. In such case, the creditor's request may be submitted within 30 days from the moment he/she learned of the repeated disturbance of possession, but not later than one year from the repeated disturbance.

3.13. Sequestration of goods

According to EA, sequestration is recognized as a particular enforcement activity when an enforcement on movables is carried out. In that regard, EA stipulates that after the inventory and assessment of movables is carried out, the enforcement agent shall leave the inventoried objects with the debtor for safekeeping if, upon creditor's request, the enforcement agent did not order that the inventoried objects be given to the creditor or to a third person for safekeeping. The inventoried objects left for safekeeping with the debtor shall be clearly marked to indicate that they are covered with the inventory. Cash money, securities and valuables are deposited by the enforcement agent in a court deposit. The debtor is prohibited from disposing with the inventoried items.

3.14. Enforcement of foreign enforceable documents

Traditionally, foreign decisions are not automatically enforceable in North Macedonia. A foreign decision can only be enforced after having been declared enforceable in a separate procedure for recognition and enforcement. As was mentioned above, Art. 8 of the EA explicitly states that the enforcement of decisions of a foreign court may be conducted in North Macedonia if the decision fulfils the prerequisites (conditions) of recognition established by law or international treaties ratified in accordance with the Constitution of North Macedonia.

The source of law affecting the requirements of exequatur is the Private International Law Act⁵⁴ as well as several international treaties. Unless a treaty provides otherwise, exequatur is granted if a foreign court decision meets several specific conditions.

Under the PILA, the term “foreign court decision” comprises: a decision of a court of a foreign country, a court settlement and a decision of another authority which in the state where it is taken is equal to a court decision or a court settlement if it regulates private legal relations that contain a foreign element.⁵⁵ A foreign court decision is equated with a court decision of North Macedonia and produces legal effect in North Macedonia only if it is recognized by the court of North Macedonia.⁵⁶

PILA provides for a *contrôle limité* as far as the extent of review of a foreign decision is concerned. It lays down the procedural and substantive grounds of approval/refusal of recognition that function as safeguards in North Macedonia as the addressed state, such as: 1) the production of the decision that satisfied the conditions to establish its authenticity (the applicant normally produces a translation of the foreign decision); 2) confirmation of its finality (and enforceability, if required); 3) proper service and no violation of the right to be heard in the foreign procedure, 4) existence of international jurisdiction of the foreign court; 5) irreconcilability with a judgment given or recognised earlier by the court in North Macedonia (as long as the earlier judgment was between the same parties and concerned the same cause of action); 6) exorbitant jurisdiction of the foreign court and 7) the public policy requirement. The court pays attention to all these requirements *ex officio*, except for the violation of the right to defence.

Under the PILA, the creditor has to commence a special procedure at the first instance court in view of obtaining a decision for recognition of a foreign decision as a prerequisite for its enforcement. Each basic court as first instance court has jurisdiction for recognition and enforcement of foreign judgments in civil matters.

⁵⁴ Official Gazette of RM, No. 32/2020 (hereinafter PILA).

⁵⁵ Art. 1 and 157 of PILA.

⁵⁶ Art. 158 of PILA.

The procedure for the recognition of a foreign judicial decision is initiated upon application. The procedure in the first instance is characterised by simplicity: the applicant (creditor) can access the competent court without representation by a lawyer, the procedure is unilateral (*ex parte*) and the defendant (debtor) is only notified of its results – granting the exequatur. In this respect, during the first stage of first instance procedure the court will focus on examining the grounds for non-recognition *ex officio*. If the court finds that all requirements are met, it will grant exequatur by issuing the decision for recognition, which is served on the defendant. This first stage of the recognition is adjudicated by a single judge of a basic court.

Although the PILA provides for grounds for refusal of exequatur, they are only relevant upon the debtor's complaint against the decision for recognition. Namely, the defendant can file a complaint against the decision for recognition on the grounds of being improperly served or because of other due process violations. The complaint is decided upon by the same first instance court composed of three judges. Besides the complaint, an appeal to the appellate court is possible against the decision for refusal of recognition, as well as against the decision on the complaint.⁵⁷

When exequatur is granted, the foreign court decision becomes effective and a request for enforcement of that decision can be filed.

Once a foreign decision has become enforceable in North Macedonia, the enforcement proceeding is identical to the one purely for domestic cases. In this regard, the PILA of 2020 states that the foreign court decision recognized by the court of the Republic of North Macedonia in the procedure provided for in this law shall be enforced according to the laws of North Macedonia that regulate the enforcement.⁵⁸

4. Part IV: Enforcement Costs

4.1. The costs of enforcement

In North Macedonia, although a model of Judicial Officers as public authorities has been established, the enforcement agents are financially independent from the state, as they are remunerated by fees. As in many European states, the cost of enforcement agents' activities, which is a key component of overall enforcement costs are regulated by the EA and the Tariff for remuneration and recovery of other expenses for the work of enforcement agents. It should be noted that the regulation of fees is one of the most sensitive issues of the new bailiff-oriented system of enforcement in North Macedonia, subject to frequent changes and reductions⁵⁹, many

⁵⁷ Art. 170 of PILA.

⁵⁸ Art. 173 of PILA.

⁵⁹ For example, the Tariff on enforcement fees of 2011 reduced the fees for 45% compared to these that were determined by the Tariff of 2006.

controversies and general public opinion that enforcement fees are set too high. This is quite understandable given that two ideals always clash in the regulation of enforcement fees. On the one hand, it is reasonable to take the view that both creditor and debtor should be unnecessarily burdened with enforcement costs, and so the fees charged should not be disproportionate to the level of the service that is necessary, and actually provided in their individual case. On the other hand, the enforcement agents are frequently employed in enforcement cases which ultimately prove unsuccessful because of the debtor's lack of assets. Since they have a legal obligation to render their services whenever requested to do so,⁶⁰ in the absence of the fee income which can compensate for this they will remain unremunerated in case of unsuccessful enforcement - which is ultimately unsustainable.

The current EA stipulates special provisions on the remuneration and recovery of expenses (costs) of an enforcement agent.⁶¹ According to the EA (as amended in 2018), the enforcement agent for the performed actions has a right to: a fee for processing the case, expenses for actions carried out and remuneration (reward) for realization of the enforceable document, in accordance with the Tariff for remuneration and recovery of other expenses for the work of enforcement agents. The reward for partial or full realization of the enforceable document is collected by the enforcement agent from the debtor in course of enforcement proceedings. The Tariff is adopted by the Minister of Justice upon prior opinion of the Chamber of Enforcement Agents. The Tariff in force has been adopted in 2019⁶², with which the Tariff of 2016 ceased to be valid. As the previous Tariff, the current one contains a mixed system of fix and proportional (an amount i.e. a percentage determined by reference to the sum recovered in enforcement proceedings) fees, as will be explained below. However, it should be noted that The Tariff of 2019 significantly reduced the remuneration and other expenses of enforcement agents.

In the following text, the provisions of the EA of 2016 (as amended in 2018) and the current Tariff will be briefly analyzed.

The fee for processing the case is determined depending on the amount of the main claim. Indeed, the lowest price of this fee is fixed on 2 EUR for notarial payment order on utility bills, while the other amounts depend on the amount of the main claim (e.g. 4 EUR for a claim not exceeding 100 EUR, 5,5 EUR for claims between 100- 300 EUR, etc., while the highest amount is 90 EUR for a claim over 80.000 EUR).

The expenses are determined in real amount and the fee for the actions carried out is determined by the type, scope, duration and place of enforcement (the amount for certain

⁶⁰ Art. 3(2) of EA states that “the enforcement agent must not refuse the enforcement, unless the conditions for his/her exclusion are met and if he is aware that for the same enforceable document is enforced by another enforcement agent”.

⁶¹ Art. 46 of EA.

⁶² Official gazette of RM, No. 32/2019.

enforcement action is fixed by the Tariff, e.g. one of the highest fixed amounts is set by the hour of certain enforcement action - 40 EUR for one hour of actions undertaken by the enforcement agent). The enforcement agent does not charge the expenses for enforcement actions against which a complaint due to illegalities during the enforcement has been lodged, and which are put out of force by the final court decision.

As for the remuneration (reward) for the undertaken actions- successful realization of the enforceable document, it is determined according to the type of enforceable document and the type of the claim to be collected, as well as according to the amount of the collected claim. In relation to monetary claims, the remuneration is determined either as a fix amount by reference to the sum recovered in the enforcement proceedings (e.g. 2 EUR for notarial payment order on utility bills not exceeding 100 EUR, 6,5 EUR for other enforceable documents not exceeding 100 EUR) or as a percentage of the amount recovered (e.g. 7,5% of the amount recovered for the claim 1.000- 3.000 EUR, 7% of the amount recovered for the claim 3.000 - 6.000 EUR, 6% of the amount recovered for the claim 1000- 3000 EUR, etc., up to 2% of the amount recovered for the claim over 80.000 EUR, but not less than 1.400 EUR). In cases of seizure of a bank account of a citizen or a legal person, the reward cannot exceed 1.000 EUR or 3.000 EUR respectively. Regarding the non-monetary claims, the enforcement agent's remuneration is calculated depending on whether the value of the object of enforcement is determined in the enforceable document. If it is determined, the provisions for remuneration in regard to monetary claims applied. Otherwise, the value is determined by appraiser during the enforcement. Yet, regarding some non-monetary claims the remuneration is fixed (e.g. in cases of returning the employee to work, it is fixed on 500 EUR).

Regardless of the amount and type of the claim, the highest amount of the enforcement agent's remuneration cannot exceed 5.500 EUR. The enforcement agent charges the reward from the debtor during the enforcement proceedings.

5. Part V: Links, literature and sources

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- Tariff for remuneration and recovery of other expenses for the work of enforcement agents (Official Gazette of RM, No. 32/19);
- Rules on the form, content and manner of keeping the Register of received requests for enforcement (Official Gazette of RM, No. 226/2016);
- Rules on the method of performing supervision over the work of the Chamber of enforcement agents of the Republic of North Macedonia and the enforcement agents (Official Gazzette of RM, No. 226/2016).