

Enforcement Atlas

EU Enforcement Atlas Project – Republic of Serbia

Civil enforcement in Republic of Serbia

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PART I INTRODUCTION

I.1. Introduction

In 2011 Serbian Parliament has passed new Law on Enforcement and Security that has brought significant changes in our legal system. It has marked discontinuance with tradition of civil enforcement conducted by enforcement courts that has been dominant since 1930 Law on Enforcement and Security. For many decades enforcement courts have been exclusively competent for issuing enforcement order and for implementation of enforcement. This was quite a long period for measuring the results of court-based enforcement. That system was inefficient and ineffective. The enforcement courts lacked capacity to conduct enforcement of civil claims in line with standards set by European Court of Human Rights and Serbian Constitutional Court. A lot of judgments have been given by these two courts ordering Republic of Serbia to pay high amounts of money to enforcement creditors because Serbian enforcement courts have failed to take appropriate measures in order to collect the claims of enforcement creditors within reasonable time period. Inability of enforcement courts to carry out enforcement in accordance with international standards was the main reason for introducing public enforcement officers that are not employees of the courts. They perform their duties as entrepreneurs.

Public enforcement officers are highly qualified legal professionals that have been delegated with large share of powers in civil enforcement procedure. Enforcement of civil claims by public enforcement officers represented dramatic shift in Serbian judicial system, which is why 2011 Serbian Law on Enforcement and Security has opted for double-track enforcement. For the most enforcement measures enforcement creditors had a choice to collect their claims using services of enforcement court or to engage public enforcement officer.

Serbian 2011 Law on Enforcement and Security has been changed in 2014 and in 2015 the whole new Law on Enforcement and Security has been adopted by Serbian Parliament. This Law has been changed in 2019 and the changes have started to apply on January 1, 2020. All these changes to the Serbian system of civil enforcement were oriented towards expanding powers of public enforcement officers.

I.2 General information on enforcement

In the Republic of Serbia the procedure in which courts and public enforcement officers conduct the compulsory collection of enforcement creditors' claims based on enforceable and credible documents (enforcement proceedings) and the status of public enforcement officers is regulated by the Law on Enforcement and Security.

Legal definition of enforcement officer – Public enforcement officers have been introduced in Serbian legal system by 2011 Law on Enforcement and Security („Official Gazette“ No. 31/2011) This Law has used expression „enforcement officer“ as opposite to the court bailiff. Article 11 („Definitions“) designated enforcement officer as a natural person appointed by the minister charged

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with judicial affairs to conduct enforcement within the bounds of enforcement order and to discharge other powers transferred to him/her by this Law in official capacity. According to the Law on Enforcement and Security currently in force, a public enforcement officer exercises public powers entrusted to them by the Law on Enforcement or Security or other laws, and they are appointed by the minister for the area of the higher court and the commercial court. The public enforcement officer carries out activities as an entrepreneur or as a member of a partnership whose members are exclusively public enforcement officers. (Article 468 LES).

Jurisdiction of enforcement courts and jurisdiction of enforcement officers –The division of powers between enforcement courts and enforcement officers has been implemented depending on the stage of enforcement procedure. All Serbian laws on enforcement procedure make clear distinction between two stages of enforcement process: ordering enforcement (issuing enforcement order) and conducting enforcement. In most cases, the court will issue enforcement order, while public enforcement officers carry out the enforcement based on the enforcement order issued by the court. The enforcement creditor submits the proposal to the competent court and designates the public enforcement officer who will conduct the enforcement procedure. There are exceptions to this rule:

1. Cases where the public enforcement officer has exclusive jurisdiction for ordering and conducting enforcement: (collection of money claims for utilities and other similar services based on enforcement titles and authentic documents and collection of money claims against the state, municipalities and budget users based on enforcement titles and authentic documents) - the role of enforcement courts is reduced to deciding upon legal remedies lodged against decisions and actions performed by public enforcement officers;
2. Cases where the court has exclusive jurisdiction for issuing enforcement order and conducting enforcement of decisions concerning family matters and reinstatement of employee
3. Cases where the enforcement creditor does not have the freedom to choose a public enforcement officer freely but must first refer to the Chamber of Public Enforcement Officers (Article 300 and 393 LES – prior to submission of the motion for enforcement based on a credible document for the purpose of collecting a monetary claim incurred by utility services and related services and the motion for enforcement against the state, municipalities and budget users based on enforcement titles and authentic documents, enforcement creditor shall request from the Chamber to appoint a public enforcement officer to whom the motion for enforcement shall be submitted)

The structure of enforcement procedure –There are two stages of enforcement procedure: deciding upon motion to enforce and conducting enforcement. Only if the first stage results in issuing enforcement order the procedure shall enter second stage. Otherwise, if a motion to enforce is finally dismissed or rejected the enforcement procedure shall be ended without collection of claim belonging to enforcement creditor.

The main principles of enforcement procedure

The principle of formal legality – It is one of the most important principles of enforcement procedure and contrary to other principles it cannot be found in other types of civil proceedings. The principle of

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formal legality defines object and the scope of enforcement proceedings and imposes limitations in respect of rendering decisions and taking actions by enforcement courts and public enforcement officers. There are several aspects of this principle:

1. There can be no enforcement procedure without enforcement title or authentic document. Motion to enforce may be filed only together with enforcement title or authentic document and consequently enforcement order may be issued only upon enforcement title or authentic document.
2. Enforcement courts and public enforcement officer are bound by enforcement title and authentic document in respect of determination of the parties and the amount of claim that shall be settled in enforcement procedure.
3. The enforcement court and public enforcement officer are not allowed to question the legality of enforcement title.
4. In the phase of carrying out enforcement, the court and enforcement officer have to act within boundaries determined by enforcement order and by enforcement title.
5. The principle of formal legality also relates to the way of establishing disputed facts in the course of enforcement proceedings. If a dispute arises between the parties or participants to the proceedings, the general rule requires that this dispute should be resolved in litigation proceedings. However, when disputed facts may be proven by using qualified evidence such as final judgments or public documents and legally certified documents, it shall be in the competence of enforcement court or in the competence of public enforcement officer to resolve this issue in the course of enforcement process. If disputed facts cannot be proven in that way, a party whose rights seem less probable shall be instructed to initiate litigation proceedings.

Dispositive principle – This principle can be found in other types of civil proceedings, and it reflects the influence of the parties over initiating the proceedings, defining its object, further development of process and termination of enforcement proceedings.

Conducting enforcement ex officio – Issuing enforcement order as the first phase of enforcement process is shaped by dispositive principle. Once when enforcement order has been issued, implementing that order is to be performed without initiative of enforcement creditor. The enforcement court or public enforcement officer has to start conducting enforcement ex officio based on enforcement order before its finality. In the case of authentic document, it has to be final.

Proportionality of enforcement procedure – Imposes limitations on actions of enforcement courts, public enforcement officers and other organs and bodies involved in enforcement process. The amount of claim that needs to be collected determines the decisions and enforcement actions that shall be taken. The enforcement procedure shall be carried out only to the extent that is necessary to satisfy the claim belonging to enforcement creditor.

Protection of enforcement debtor – According to the Article 23 of Serbian Constitution every person shall be entitled to respect of his/her human dignity. That principle must be respected in enforcement process. According to the Article 142(1) of Law on Enforcement and Security public enforcement officer is obligated to respect the person of enforcement debtor and other people in his/her household during implementation of enforcement actions.

Principle of urgency – Enforcement courts and public enforcement officers must pass decisions and take enforcement actions urgently. There are very short deadlines for deciding upon different motions and performing certain actions in the course of proceedings (Article 15 of the Law on Enforcement and Security).

Transparency of assets belonging to enforcement debtor – Enforcement procedure can be carried out successfully only if there are available assets of enforcement debtor that may be objects of enforcement. That is why enforcement creditor whose claim has been established in enforcement title or in bill of exchange may access any registry containing information about assets belonging to enforcement debtor. All state organs, bodies, banks, legal entities and entrepreneurs are obligated to provide information that are relevant for conducting enforcement. The right to access this type of information is reserved for enforcement creditor and his lawyer as well as for enforcement courts and public enforcement officers.

The use of electronic communications and automation of enforcement procedure – The amendments to the Law on Enforcement and Security of 2019 have produced very high level of enforcement procedure automation. The use of electronic communication has been promoted by these amendments.

According application of Civil Procedure Code – All procedural situations haven't been regulated by the provisions of Law on Enforcement and Security. In the case there is a loophole in this Law, the provisions of Civil Procedure Code shall apply accordingly which means not automatically but in a way that is in accordance with the basic principles of enforcement procedure (Article 39 of the Law on Enforcement and Security).

Information on the national organization

In the Republic of Serbia the national organization of public enforcement officers is the Chamber of Public Enforcement Officers. The Chamber is professional association of public enforcement officers, comprising of all public enforcement officers, and it operates as a non-profit association. The Chamber is a legal entity with powers set out by law and the Articles of Association of the Chamber. The registered headquarters of the Chamber are in Belgrade. The Chamber's scope of work is to: 1) adopt the Articles of Association of the Chamber, the Ethical Code of Public Enforcement Officers and other regulations as well as general and special acts, 2) safeguards the reputation and honor and rights of public enforcement officers and thus initiate the disciplinary procedure against public enforcement officers and deputy public enforcement officers, 3) takes care that public enforcement officers and their deputies perform their tasks conscientiously and licitly, 4) represents the public enforcement officers and their deputies in front of the government organs, with the purpose of protecting the public enforcement officers, 5) manages initial training of candidates for public enforcement officers and regular training and other forms of professional development of public enforcement officers and their deputies, and organizes professional gatherings, seminars and counseling, 6) cooperates with chambers of enforcement officers from other countries.

PART II THE LEGAL FRAMEWORK

II.1 Legislation affecting civil enforcement

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The matter of enforcement and security in the Republic of Serbia is primarily regulated by the main regulation, which is the Law on Enforcement and Security. The Law on Enforcement and Security (*"Official Gazette of the Republic of Serbia"*, no. 106 dated December 21, 2015, no. 106 dated December 28, 2016 - *Authentic Interpretation*, no. 113 dated December 17, 2017 - *Authentic Interpretation*, no. 54 dated July 26, 2019, no. 9 dated February 4, 2020 - *Authentic Interpretation*) is currently in force. This law has been in force since 2016, but major amendments to the law were adopted in 2019 and came into force in 2020. Due to the scope of the 2020 amendments, in practice these changes are often treated as a new law.

The law that completely preceded the currently valid one is the Law on Enforcement and Security from 2011.

The reason why all these regulations are mentioned is that they are all still "active". In the Republic of Serbia, the highest legal act - the Constitution, in principle prohibits the retroactive application of regulations except in exceptional cases. Since the Law on Enforcement and Security is a procedural law, the provisions of the new law and new amendments to the law will only apply to proceedings that begin after the entry into force of the new regulation or amendments to the regulation. It is understandable that there are processes that were started before the entry into force of the new laws. The law that was in force at the time when proceeding was initiated is applied to the proceeding. The moment of initiation of the proceeding is the moment when the enforcement creditor submitted a proposal for enforcement. Depending on which law is applied in a specific case, it will also depend on which by-laws are applied to the procedure.

In addition to the main regulation - the Law on Enforcement and Security, the provisions of the Civil Procedure Code, are applied accordingly to enforcement proceedings. The Civil Procedure Code will be applied in those situations that are not regulated by the Law on Enforcement and Security (Article 39 LES).

In addition to the mentioned laws there are several bylaws such as: Rulebook on the Procedure for Submitting Proposals for Enforcement Based on an Enforcement or Credible Document in Electronic Form, Rulebook on Electronic Delivery between Public Enforcement Officers and Other Authorities, Rulebook on the Organization and Procedure of Electronic Public Auctions, Rulebook on Standards of Professional Conduct for Public Enforcement Officers, Rulebook on the Procedure for Voluntary Settlement of Monetary Claims Before Commencing Enforcement Proceedings, Rulebook on General Terms for Concluding Insurance Contracts for Public Enforcement Officers, Rulebook on Disciplinary Proceedings against Public Enforcement Officers, Rulebook on Supervision of the Work of Public Enforcement Officers, Public Enforcement Officers Tariff...

Other legislation that is affecting civil enforcement: Mortgage Law, Law on the Procedure of Registration in the Real Estate Cadastre and Cadastre of Infrastructure, Law on Court Fees, Bankruptcy Law, Law on Digital Assets, Law on Public Property, Law on Electronic Administration, Law on Pledge Rights on Movable Assets and Rights Registered in the Registry, Law on the Fundamentals of Property Relations, Law on Obligations, Law on Organization of Courts, Law on Public Notaries, Law on Business Entities, Law on Capital Market, etc.

II.2 Enforceable titles

Enforcement order may be issued only on the basis of enforcement title or authentic document. That is one of the consequences of formal legality principle that shapes enforcement procedure and defines the scope of actions of enforcement courts and public enforcement officers.

Enforcement titles

According to the Article 41 of the Law on Enforcement and Security there are different types of enforcement titles: enforceable court judgments, decisions and court settlements stating entitlement to transfer, action, non-action or sufferance; enforceable decision passed in administrative proceedings and settlement concluded in administrative proceedings stating entitlement to money claim unless otherwise provided by law; mortgage contract and mortgage statement; excerpts from the register of pledges on movable property rights and from register of financial leasing contracts; reorganisation plan adopted in bankruptcy proceedings and verified by the competent court; agreement on resolving dispute in mediation proceedings in accordance with the law; decision of Constitutional Court ordering the damage to be paid to a party that has filed constitutional complaint; other documents that are defined as enforcement title by provisions of Law on Enforcement and Security or some other law. In order for a document to have the effects of enforcement title it has to be recognized as such in Law on Enforcement and Security or in some other law. That means that the list of enforcement titles in Article 41 Law on Enforcement and Security is not exhaustive. There are also enforcement titles recognized under the provisions of some other laws.

Enforcement titles can be divided into two groups. In the first group there are enforcement titles that have been issued by courts, arbitration tribunals, other state bodies or administrative organs. It means that the establishment of the claim has been done in contentious proceedings conducted by the court or by some other authority. Second group of enforcement titles usually represent bilateral or unilateral acts of the parties and they haven't pass the control of state organs and other bodies in proceedings based on adversarial principle.

Enforceability of enforcement title – Court decision ordering transfer or action shall become enforceable if it has become final and if deadline for voluntary compliance has expired. Deadline shall start on the day on which decision has been served on enforcement debtor, unless otherwise provided by law. If a court decision sets condition for fulfilling the obligation it shall become enforceable when the condition has been met. Court decision ordering non-action or sufferance becomes enforceable when it becomes final unless otherwise determined in decision.

Decisions passed in administrative proceedings shall become enforceable in accordance with the rules governing that type of proceedings. Enforcement titles drafted by public notaries shall become enforceable if the conditions in law governing public notary service have been met.

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There are situations where court decision may become enforceable although it hasn't become final. For example, judgment issued in litigation proceedings ordering natural person to pay the amount less than 300 euros or ordering entrepreneur or legal entity to pay the amount less than 1.000 euros shall become enforceable although it hasn't become final (Article 368 Civil Procedure Code).

Certificate of enforceability – Enforceability needs to be confirmed by special certificate. Upon motion of a party this certificate shall be put by a court or some other organ that has decided on a claim in first instance or public notary. If there were no conditions for putting certificate of enforceability on enforcement title it shall be quashed upon request of the party or ex officio (Article 44 of the Law on Enforcement and Security). Court settlement or a settlement concluded in administrative proceedings shall become enforceable when the claim matures. The maturity of the claim shall be proven by court record or by public document or by document certified in accordance with the law (Article 45 of the Law on Enforcement and Security).

Enforcement based on foreign enforcement title – Foreign enforcement title shall be enforced in the same way as domestic if it is related to fulfilment of civil claim and is recognized before Serbian court. Enforcement creditor has two options. He/she may first file request for recognition of foreign enforcement title and after the proceedings for recognition has finally ended he/she may file a motion to enforce based on that foreign enforcement title in accordance with the Law on Enforcement and Security. The other option would be to file the motion to enforce although foreign enforcement title hasn't been previously recognized by Serbian court. In that case the court competent to decide upon motion to enforce has to establish whether the conditions for recognition of foreign enforcement title have been met. That shall be resolved as preliminary issue in enforcement procedure. Enforcement order issued on the basis of enforcement title that hasn't been previously recognized may be challenged by legal remedy if conditions for recognition of foreign enforcement title haven't been met (Article 46 of the Law on Enforcement and Security).

Suitability of enforcement title – Enforcement order may be issued based on enforcement title only if that enforcement title is suitable for enforcement. That means that enforcement title must contain information about enforcement creditor, enforcement debtor, the type, object and scope of obligation. If a deadline for voluntary compliance hasn't been determined it shall be eight days starting from the day on which enforcement title has been served on enforcement debtor. If maturity of a claim cannot be established from the Registry of pledge right, enforcement creditor must submit document proving that he/she has left additional deadline for fulfilling obligation by enforcement debtor. Enforcement order may also be issued if only one part of court or administrative decision or document issued by public notary has become enforceable, in respect of that part (Article 47 of the Law on Enforcement and Security).

Authentic documents (authentic title)

Enforcement order may also be issued on the basis of authentic documents. These are mostly documents drafted by a party to the proceedings. Since the claim contained in authentic document hasn't been established in some sort of contentious proceedings, enforcement of claims contained in

authentic documents is different from enforcement of claims established in enforcement titles. Authentic documents may be issued only in respect of money claims.

Article 52 of the Law on Enforcement and Security recognizes the following authentic documents: 1) bill of exchange issued by domestic or foreign person with protest if it is necessary for establishment of claim; 2) excerpt from Registry of Securities; 3) invoice issued by domestic or foreign person alongside with proof that enforcement debtor has been informed about his/her obligation; 4) business book excerpt related to utilities or other similar services; 5) calculation or business book excerpt related to public media tax; 6) public document establishing enforceable money claim; 7) bank guarantee; 8) letter of credit; 9) certified statement issued by enforcement debtor authorizing enforcement creditor to transfer money from his/her account to the account of enforcement creditor; 10) calculation of interest together with the proof about the amount and maturity of claim; 11) interim or final payment certificate in respect of completed construction work; 12) calculation of costs issued by a lawyer.

Suitability of authentic document – Enforcement order may be issued only if authentic document is suitable for enforcement. It has to contain information about enforcement creditor, enforcement debtor, type, object, scope and maturity of obligation. If maturity cannot be established from authentic document, enforcement creditor is obligated to submit document proving that he/she has left additional deadline for enforcement debtor to fulfil his/her obligation (Article 53 of the Law on Enforcement and Security).

II.3 Service of documents to parties and third parties

Service of documents is regulated by Article 36 of the Law on Enforcement and Security. Although the article is entitled "Service to the enforcement debtor", the last paragraph of this article prescribes that the provisions are accordingly applied to the service of the enforcement creditor and other participants in the procedure. The title of the article may seem confusing because all the rules of service prescribed by the said article apply to all parties and all participants in the procedure.

Method of delivery

Letters are delivered to a party or a participant in the procedure who is a legal entity or an entrepreneur at the address of the headquarters or the address for receiving mail, which are entered in the register of the Agency for Business Registers or another public register.

Letters are delivered to the party or participant in the procedure who is a natural person at the address of residence or place of residence registered with the authority that keeps records of identity documents. Public enforcement officers in the Republic of Serbia have access to the register of residence maintained by the Ministry of Internal Affairs through the Judicial Information System.

If delivery fails, within three days the letter is published on the electronic bulletin board of the court that issued the decision on enforcement based on an enforceable or authentic document, and when it comes to a decision on enforcement based on an authentic document, delivery is repeated once

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more after the expiry of the period of eight days from the previous delivery, and if the repeated delivery fails, the decision will be published on the court's electronic bulletin board within three days.

The deliverer leaves a notice in the mailbox of the enforcement debtor or in another place at the address of the enforcement debtor, which contains: the personal name of the enforcement debtor, capacity in the proceedings, an indication that the letter will be displayed on the court's electronic bulletin board within three days, the name and address of that court and a warning that upon the expiry of the period of eight days from the publication of the letter on the electronic bulletin board of the court, it is considered that service has been made. Service of document is considered to have been made after eight days from the date of posting the letter on the court's electronic bulletin board.

Jurisdiction for service and direct service to the public enforcement officer (Article 37. LES)

Acts of the court and the public enforcement officer and written documents of the parties and other participants in the enforcement and security proceedings are delivered by the public enforcement officer, if the court is not exclusively competent for enforcement, in which case delivery is done by the court.

Delivery between the public enforcement officer and other authorities can also be done electronically, in accordance with the Rulebook on electronic delivery between the public enforcement officer and other authorities ("Official Gazette of the RS", No. 30 of March 26, 2021)

The court through whose electronic bulletin board the public enforcement officer submits acts and documents keeps a special record of when the act or document was displayed on the electronic bulletin board and when it was removed from it, and delivers an official electronic confirmation of this information to the public enforcement officer. The record contains the number of the court case, i.e. the case of the public enforcement officer and the name and surname or business name, unique citizen registration number (for natural persons), registration number (for legal entities) and tax identification number of the parties in the proceedings.

Service of the enforcement order

The enforcement order based on an enforceable or authentic document is delivered by the court to the public enforcement officer, with a copy of the documents needed to carry out the enforcement. The public enforcement officer then delivers the decision to the enforcement creditor and the enforcement debtor.

The decision on dismissing or rejecting the proposal for enforcement based on an enforceable or authentic document is delivered by the court, only to the enforceable creditor.

The enforcement decision, which, in addition to the parties, is also delivered to others (the debtor of the enforcement debtor, the enforcement organization, the Central Registry of Securities, etc.) is delivered by the public enforcement officer. If the court is exclusively competent for conducting the enforcement, the enforcement order is delivered to all of them by the court.

Special rules for submitting conclusions on the sale of immovable property at public auction

Publication and service of the conclusion on the sale of immovable property at a public auction (Article 174 LES)

The conclusion on the sale of immovable property at a public auction is certainly delivered to the parties. In addition to the parties, the conclusion on the sale of immovable property is also delivered to the pledge creditors, participants in the procedure and the holder of the contractual and legal right of pre-emption, which is registered in the cadastre. In addition, the conclusion on the sale of immovable property at public bidding is published on the Chamber's electronic bulletin board. In the provision of Article 174 of the LES, it is prescribed that it is also published "in another usual way". What is certain is that this conclusion will have to be published on the Chamber's electronic bulletin board. When selling things in the enforcement procedure, whether it is movable or immovable property, the goal is for as many people as possible to find out about the sale in order to achieve the best possible price for the thing being sold. For this reason, the conclusion of the sale in this case must be made public, so that all interested parties can obtain information about the sale.

The law stipulates that in the case of immovable property sales through electronic public bidding, the conclusion of the sale is also published on the electronic sales portal.

At the time of writing this Atlas, all public immovable property sales in the Republic of Serbia are exclusively conducted through the electronic public bidding portal - eAuction. At the time of the adoption and entry into force of the latest amendments to the Law on Enforcement and Security, it was possible to organize the sale of immovable property outside the portal of electronic public bidding. Starting from September 1, 2020, public bidding for the sale of immovable property and movable property can be organized exclusively in the form of electronic public bidding.

In addition to the mandatory publication of the sale conclusion on the Chamber's electronic bulletin board as well as on the electronic sales portal, the party may, at its own expense, publish the conclusion in the media and inform the sales intermediaries (immovable property agents) about the conclusion. This publication is not mandatory, but the Law foresees it as a possibility that the parties have at their disposal, all with the aim of making as many people as possible aware of the sale.

Regarding the delivery and publication of the conclusion on the sale of movable property, the same rules apply as for the delivery and publication of the conclusion on the sale of immovable property.

Also, it is important to note that the violation of the rules on the submission of decisions or conclusions of the court or public enforcement officer, due to which a party or a participant in the procedure lost a procedural right, represents a severe disciplinary violation of a public enforcement officer.

II.4 Legal remedies, appeal, and objection

Legal remedies in enforcement proceedings are appeals and objections.

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The decision of the first-instance court or the public enforcement officer is contested by an appeal, if the Law on Enforcement and Security does not stipulate that an appeal is not permitted or that such a decision is contested by an objection. The law prescribes in which cases an appeal is filed and in which cases an objection is filed. The right to a legal remedy is established by the highest legal act - the Constitution. (Article 24 LES).

An objection may be filed against writs of the first instance court or public enforcement officer only when it is stipulated by the LES. In addition, the objection can also be filed as a third-party objection.

An appeal may be filed against the writ issued on the objection only in the case where it is prescribed by the Law on Enforcement and Security.

In the Republic of Serbia, public enforcement officers manage the proceedings by conclusions. For example, after serving the enforcement order to the parties, the public enforcement officer will first issue a conclusion on the advance payment, and then a conclusion on enforcement, a conclusion on the sale of movable property or immovable property, etc. No objection or appeal is allowed against the conclusion. Objections or appeals filed against the conclusion are dismissed in the decision or conclusion which completes the enforcement procedure.

The deadline for appeals and objections and the absence of suspensive effect of appeals and objections

The rule is that appeals and objections must be submitted within eight days from the date of submission of the writ, unless a longer or shorter period is specified by the Law on Enforcement and Security. Appeals and objections delay enforcement only when this is determined by LES.

Illicitness of extraordinary legal remedies

Against a final decision, no revision or repetition of the procedure is allowed.

Reinstatement

Reinstatement is allowed due to missing the deadline for filing the legal remedy against the enforcement order. The court that is competent to decide on the legal remedy against the enforcement order shall decide on the reinstatement.

APPEAL

Appeal against the writ rendered upon the motion for enforcement based on enforcement document

The enforcement debtor may contest the enforcement order by appeal. The enforcement creditor may by appeal contest the writ on the dismissal of the enforcement motion or the writ on rejection of the enforcement motion or the enforcement order that exceeded his motion. If the enforcement order is contested only in the part which assessed the cost of the enforcement proceedings, it is done so by an objection.

Appeal of the enforcement debtor against the enforcement order

Reasons for contesting the enforcement order

The enforcement debtor may use the appeal to contest the enforcement order for the following reasons that prevent the implementation of enforcement:

- 1) if the document on the basis of which the enforcement order was made does not have the status of an enforcement document;
- 2) if the enforcement document on the basis of which the enforcement order was made has been annulled, repealed, reversed, revoked or if it is not enforceable;
- 3) if the court or administrative settlement or the public notary settlement record, on the basis of which the enforcement decision was made, has been annulled or otherwise revoked;
- 4) if the deadline for fulfilment of the enforcement debtor's obligation has not expired;
- 5) if the enforcement debtor's obligation depends on the prior or simultaneous fulfilment of the obligation of the enforcement creditor or the occurrence of a condition, and the enforcement creditor did not fulfil his obligation or did not ensure its fulfilment or the condition did not occur;
- 6) if the claim from the enforcement document has ceased;
- 7) if the claim has not passed or has not been transferred to the enforcement creditor or if the obligation has not passed or has not been transferred to the enforcement debtor;
- 8) if the deadline for filing the motion for enforcement expired;
- 9) if enforcement is determined on objects and rights that are exempt from enforcement or against which enforcement is limited;
- 10) if the claim from the enforcement document has expired;
- 11) if in the decision on enforcement determines the public enforcement officer that has no territorial jurisdiction;
- 12) for reasons prescribed by a specific law.

The enforcement debtor shall specify in the appeal the reasons for contesting the enforcement order the facts and evidence corroborating the reasons for contesting the enforcement order, and enclose all written evidence referred to in the appeal. Otherwise, the appeal is dismissed as incomplete by a writ, without prior returning to amendment.

The appeal is filed with the first instance court that rendered the enforcement order.

The first-instance court by decision dismisses an appeal that is not timely, complete, or permitted, within five days from the day of receipt thereof, and dispatches the decision within the next three days. The enforcement debtor is entitled to appeal against the writ on dismissal of the appeal within the term of three days from the day of receipt of the writ. So, first, it is determined whether there are basic conditions for the appeal to be acted upon, and this is decided by the court that issued the decision contested by the appeal. In that process phase of the procedure, the court will not review the merits of the appeal. If the appeal is dismissed by the first-instance court for the above-mentioned reasons, the enforcement debtor has the right to activate the control mechanism, that is, he has the right to demand that the second-instance court examine the decision to dismiss the appeal. And it will do so by filing an appeal against the decision of the first-instance court which dismissed the appeal. If the second-instance court adopts the appeal against the decision on dismissal of the appeal, it submits

the appeal against the decision on enforcement to respond to the enforcement creditor and then decides on it.

Therefore, in this procedural phase, the second-instance court primarily examines whether there really are reasons for dismissing the appeal, and if there are not, it continues to act on the appeal. In the next phase, the second-instance court assesses the merits of the allegations of the appeal, which will affect the survival of the enforcement decision.

The law prescribes a deadline in which the creditor is obliged to respond to the allegations in the appeal, and that deadline is eight days from the delivery of the appeal to the enforcement creditor. If the enforcement creditor does not declare the allegations within eight days, the court will assess the merits of the allegations from the appeal without the enforcement creditor's statement on these allegations.

Termination of enforcement upon appeal of the enforcement debtor against the enforcement order

If the appeal is rejected, the enforcement procedure continues its course as if there had been no appeal. However, if the appeal is adopted, consequences ensue that affect the enforcement procedure. When it is established that the appeal is regular, i.e., that there are no grounds for dismissal, the first-instance court may also render a decision on the appeal, but only if it deems the appeal justified. The legislator allows the first-instance court to assess the validity of the legal remedy filed against the decision made by the first-instance court itself. In that case, if it deems the appeal justified, the first-instance court may adopt the debtor's appeal, annul the enforcement decision, suspend the enforcement in whole or in part, and annul the actions taken.

Against such a decision of the first-instance court in which the appeal is assessed as justified, an appeal can be filed with the second-instance court. In addition, the first-instance court has the option, if it does not decide to adjudicate the appeal itself, to forward the appeal for adjudication to the second-instance court. It will do so separately if it deems the appeal unfounded.

Decision of the Second-Instance Court on the Appeal of the Enforcement Debtor (Article 78)

In cases where the appeal will be decided by the second-instance court, the first-instance court will forward the appeal that has been delivered to it to the second-instance court. In this situation, the first-instance court shall deliver the appeal, response to the appeal, and case files to the second-instance court on the next working day after receiving the response to the appeal or after the expiry of the deadline for responding to the appeal (this is the situation in which the enforcement creditor to whom the appeal has been duly delivered does not provide a response within the time limit prescribed by law).

Upon receiving the appeal with all accompanying documentation, the second-instance court examines the first-instance decision within the grounds stated in the appeal, ensuring, ex officio, the correct application of substantive law, whether the court is competent to issue a decision on enforcement, subject matter jurisdiction, whether the document based on which the enforcement decision was made is an enforceable instrument, whether the deadline for enforcement has expired, and whether the enforcement is determined on an item outside legal circulation. These are violations that the court

examines ex officio. However, the appeal may also cite procedural violations that the court does not examine ex officio. In this situation, the second-instance court is obliged to assess whether the cited violations affected the legality and correctness of the enforcement decision. After the process of assessing the validity of the appeal and evaluating the legality and correctness of the enforcement decision regarding violations examined ex officio, the second-instance court will render a decision.

Decisions on Appeals

The second-instance court renders a decision determining the validity of the appeal. It may dismiss, adopt, or reject the appeal. The decision on the appeal must be made within 15 days from the date of receiving the appeal, response to the appeal, and case files. The decision on the appeal is dispatched within 3 days from its issuance. In the situation where the second-instance court forwards the appeal for a response to the enforcement creditor, the deadline for deciding on the appeal is 30 days. In the situation where the enforcement debtor proves the existence of reasons preventing the enforcement through a public instrument or legally certified document, the court is obliged to adopt the appeal. This obligation is prescribed by the Law itself.

Consequences of Accepting the Appeal

There are two possibilities depending on the type of violation:

1. The enforcement procedure is terminated, the first-instance decision is overturned, and the proposal for enforcement is rejected.
2. The first-instance enforcement decision is annulled, and the proposal for enforcement is dismissed.

The enforcement procedure is not terminated if the first-instance court declares itself territorially or materially incompetent. In that case, the case files are transferred to the competent court.

In situations where the appeal does not suspend enforcement, it may happen that enforcement has begun before the appeal decision is made. In this situation, in addition to terminating the enforcement procedure, the court will annul all executed enforcement actions. Only in situations where the appeal is accepted due to the territorial jurisdiction of the first-instance court, the enforcement decision will not be annulled, and the executed actions can only be annulled by the court to which the case files are transferred, within eight days from the delivery of the case files (if necessary for the proper conduct of the proceedings).

Litigation Procedure for Establishing the Illegitimacy of Enforcement

If the decision to reject the appeal is based on facts disputed between the parties and related to the claim itself, the enforcement debtor may, within 30 days from the date of delivery of the decision rejecting the appeal, initiate a litigation procedure to establish the unlawfulness of enforcement. The lawsuit does not suspend enforcement, and the litigation procedure takes precedence in decision-making and is urgent.

There are two possible situations:

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1. The enforcement procedure is still ongoing when the court makes a decision in the litigation procedure.
2. The enforcement procedure has ended when the court makes a decision in the litigation procedure.

In the first scenario, if the court, by final decision, establishes the illegitimacy of enforcement, the public enforcement officer, upon the request of the enforcement debtor, terminates the enforcement procedure and annuls the enforcement decision and all executed actions.

In the second scenario, when the enforcement procedure has ended because the enforcement creditor has been satisfied, but the main hearing before the first-instance (litigation) court has not yet concluded, the enforcement debtor, as the plaintiff, has the right to amend the lawsuit and request the court to order the enforcement creditor to return what they received through enforcement and to reimburse the enforcement costs.

OBJECTION

Objection in the proceeding regarding the proposal for enforcement based on a credible (authentic) document

Situation in which an objection is filed

The debtor may object to the decision on enforcement based on a credible document, while the enforcement creditor may object to the decision to dismiss or reject the proposal for enforcement based on a credible document.

Parties may object to only a part of the decision regarding the costs of the procedure.

The party submits an objection to the court that issued the decision on enforcement based on a credible document. The objection is submitted within a period of eight days from the date of delivery of the decision. The party's objection suspends the enforcement of the decision on enforcement based on a credible document until it becomes final, except if the decision on enforcement is based on a promissory note. If the party does not submit an objection within the specified period, the judge, within three days from the expiration of the objection period, informs the public enforcement officer that the conditions for enforcement are met.

Reasons for challenging the decision on enforcement based on a credible document (Article 87)

An objection may be made exclusively for the following reasons:

1. if the claim from the credible document did not arise;
2. if false content is entered into the credible document;
3. if the claim from the credible document is not due;
4. if the obligation has been fulfilled or otherwise ceased;
5. if the claim has expired;
6. if the claim has not been transferred to the creditor or if the obligation has not been transferred to the debtor;
7. for reasons prescribed by special law.

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The enforcement debtor is obliged to state the reasons for challenging the decision in the objection, present the facts, and submit evidence on which the objection is based. Otherwise, the objection is dismissed as incomplete, without prior return for supplementation. The enforcement debtor may only attach written evidence.

If the enforcement debtor makes it likely that the allegations from the objection, which challenge the decision in part where they are obligated to satisfy the claim, the panel will determine that the procedure continues as a litigation procedure concerning the objection against the payment order (and if the acting court is not competent to conduct that litigation procedure, the case lists will be forwarded to the competent court). In the same decision adopting the objection and determining that the procedure continues as litigation, the court will simultaneously determine a stay of the enforcement procedure until the final conclusion of the litigation procedure. Depending on the outcome of the litigation procedure, it will determine whether the enforcement procedure will continue (if the decision on enforcement remains partially or entirely valid) or the enforcement procedure will be terminated (if the court renders a judgment completely overturning the decision on enforcement). In both cases, the enforcement procedure will continue or be terminated only after the decision becomes final.

In the event that the decision on enforcement is made based on a promissory note and the panel determines that the procedure continues as a litigation procedure concerning the objection against the payment order, and that the enforcement procedure is stayed until the final conclusion of the litigation procedure, the enforcement actions already taken up to that point will not be revoked. Instead, if a judgment is rendered upholding the decision on enforcement, the procedure will continue. If a judgment is rendered overturning the decision on enforcement, the enforcement procedure will be terminated after the judgment becomes final.

Third Party Objection

A third party claiming to have a right over the subject of enforcement that prevents the enforcement may submit an objection to the public enforcement officer, requesting that the enforcement be declared impermissible on that subject. This objection may be filed until the conclusion of the enforcement procedure.

The third party is obliged to state the reasons for the objection and to attach documents proving the existence of their right with the objection. Otherwise, the objection is dismissed as incomplete, without prior return for supplementation. The objection is delivered to the enforcement creditor for their response within eight days from the date of delivery, with a warning about the consequences of failure to respond. The objection is also delivered to the enforcement debtor for their response within eight days from the date of delivery.

If the enforcement creditor timely fails to respond to the objection or does not contest the objection, or if the third party proves the objection with a legally binding decision or a publicly or legally certified document, the objection is adopted by decision, and the enforcement procedure regarding the subject of enforcement is terminated, with the decision on enforcement and all actions taken being revoked. In other cases, the objection is rejected. Only against the decision adopting the objection can an appeal be filed.

In cases where the objection of the third party is rejected or dismissed, the third party may initiate litigation within 30 days from the date of receipt of such a decision. In the litigation, they will request that it be determined that the enforcement is impermissible. It is clear that this procedure does not delay the enforcement process, but if the litigation procedure concludes with a final decision before the enforcement procedure, and if it is determined in the litigation procedure that the enforcement is impermissible, the public enforcement officer will, upon the request of the third party regarding the subject to which the third party claims rights, terminate the enforcement procedure and revoke the decision on enforcement and all actions taken.

There are exceptions when it cannot be requested to declare the enforcement impermissible on an item. A co-owner whose share in a movable item does not exceed half of its value cannot request that the enforcement be declared impermissible regarding their share. Instead, they have the right to demand payment of a share of the price proportional to their share before any other person and before the costs of the procedure are settled, or the right to have the item assigned to them if they provide security equal to the share of the enforcement debtor.

Irregularities in the Enforcement Procedure

In addition to the legal remedies mentioned, there is the possibility of correcting irregularities in the enforcement procedure in situations where it is not possible to file an appeal or objection. A party or participant in the procedure may request the rectification of irregularities that occurred during and due to the enforcement procedure within eight days from the date the irregularity occurred. The request for rectification of irregularities cannot be filed against decisions issued by the court or the public enforcement officer. The deadline for submitting the request is eight days from the date of delivery of the decision to the party or participant in the procedure, and it is submitted to the court or the public enforcement officer, depending on who is conducting the enforcement. A decision on the request for rectification of irregularities is made within 8 days and does not delay enforcement. The decision on the request for rectification of irregularities is made by a writ. An objection is allowed against the decision rejecting or dismissing the request. The request for rectification of irregularities submitted by a participant in the procedure must contain their identification details. When the request for rectification of irregularities is justified, the court or the public enforcement officer will, by decision, establish, or if possible, order the rectification of the irregularities committed during and due to the enforcement procedure.

II.5 Postponement, suspension and termination of enforcement

POSTPONEMENT OF ENFORCEMENT

According to the Law on Enforcement and Security, the postponement of the procedure is possible upon the proposal of the enforcement creditor, the enforcement debtor, a third party, or based on an agreement between the parties.

Postponement upon the proposal of the creditor (Article 120 of the Law on Enforcement and Security)

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If the enforcement has not yet begun, the public enforcement officer will postpone the enforcement by decision upon the proposal of the enforcement creditor. However, if the enforcement proceedings have already commenced, the enforcement debtor may oppose the postponement. In that case, the public enforcement officer will reject the proposal of the enforcement creditor for postponement of the enforcement. There are cases in which enforcement can only be requested within a certain period, and in such cases, the enforcement creditor can propose postponement only until that period expires. If the deadline expires, the public enforcement officer will dismiss the proposal for postponement. The possibility of filing an appeal against that decision depends on the type of decision on the proposal of the enforcement creditor for postponement of the enforcement. When the public enforcement officer adopts the proposal for postponement of the enforcement creditor in cases where the enforcement proceedings have not yet begun, no appeal can be filed against such a decision. However, if the public enforcement officer rejects or dismisses the proposal of the enforcement creditor for postponement of the enforcement, an objection is allowed.

Postponement of enforcement at the debtor's request (Article 122 of the Law on Enforcement and Security)

The Law on Enforcement and Security provides for the possibility for the debtor to propose the postponement of enforcement. However, this possibility is limited in that the enforcement debtor can only propose postponement once during the proceedings. Furthermore, this proposal is not unconditional. Enforcement will be postponed only if the enforcement debtor makes it probable that they would suffer irreparable or difficult-to-compensate damage greater than that which the enforcement creditor would suffer due to the postponement. Additionally, the enforcement debtor may request the postponement of enforcement if specific reasons justified by the enforcement debtor and proven by a public or legally certified document warrant it.

In situations where the enforcement debtor requests postponement, the Law on Enforcement and Security allows the enforcement creditor to condition the postponement by requiring the enforcement debtor to provide security before making a decision on the debtor's proposal. The provision of security will not be accepted if it would lead the enforcement debtor and their family members into severe deprivation. If it is determined that the enforcement debtor must provide security and they fail to do so within the deadline set by the public enforcement officer, the proposal for postponement will be considered withdrawn.

Postponement at the request of a third party

Third parties can also request the postponement of enforcement, but only if certain conditions are met:

1. The third party has submitted an objection (third-party objection requesting that enforcement on a particular subject be declared impermissible) **see the section "third-party objection."*
2. If the third party proves its right with a legally binding decision or a public or legally certified document.

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Both mentioned conditions are necessary. Like the enforcement debtor, the third party can request postponement only once during the proceedings. In this case, the public enforcement officer is not obligated to postpone enforcement but may delay it as they deem appropriate depending on the circumstances.

Agreement between the parties on postponement

The law provides for the possibility of parties reaching an agreement on postponement. This can happen either by one party agreeing to the proposal of the opposing party or by the parties in the proceedings agreeing to the postponement proposed by a third party. Such an agreement is possible only before the decision on postponement is made. If an agreement is reached, the public enforcement officer will issue a decision on postponement without examining the reasons for postponement. Understandably, there is no legal remedy against such a decision. Additionally, the time during which enforcement is postponed will not be counted towards the duration of the proceedings in terms of protecting the right to a trial within a reasonable time.

Procedure, deadlines, legal remedies, effects of postponement, and resumption of postponed enforcement

A proposal for postponement of enforcement submitted by the enforcement debtor is sent to the enforcement creditor for a response, while a proposal for postponement submitted by third parties is sent to both the enforcement creditor and the enforcement debtor for a response. In both cases, a three-day deadline is given for the response. Upon receiving the response, the public enforcement officer must make a decision on postponement within five days. If the parties do not provide a response within the deadline, the public enforcement officer will make a decision within five days after the expiration of the response deadline.

It is already discussed were the legal remedies regarding decisions on the proposal for postponement by the enforcement creditor. Appeal is not allowed against the decision to adopt the proposal for postponement by the enforcement creditor, while an objection is possible against the decision rejecting or dismissing the proposal for postponement.

Regarding the decision made based on the proposal for postponement submitted by the enforcement debtor or third parties, an objection is allowed.

Postponement takes effect from the issuance of the decision on postponement of enforcement, during which no actions are taken to conduct the enforcement. However, there are exceptions to this, as actions may be taken based on which the enforcement creditor acquires a pledge or a right of settlement on the subject of enforcement, and the subject of enforcement is evaluated. Only the submission of a proposal for postponement and the submission of an objection against the decision rejecting or dismissing the proposal for enforcement do not delay enforcement. Enforcement will be postponed only when a decision adopting the proposal for postponement is made.

The duration of the postponement depends on who submitted the proposal for postponement and the circumstances leading to the postponement. The Law on Enforcement and Security has not

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specified a deadline but only provides guidelines for the deadline. In cases where postponement is proposed by the enforcement creditor, enforcement will be postponed for the period determined by the creditor in the proposal (except when enforcement can be requested within a certain period, then postponement is possible until the expiration of that period). In cases where postponement is proposed by the enforcement debtor or third parties, the duration of the postponement is determined by the public enforcement officer depending on the circumstances.

Resumption of Postponed Enforcement

Enforcement is resumed automatically when the time period for postponement expires. However, there are situations in which enforcement may be resumed before the expiration of the postponement time period. The law provides for several situations in which this is possible:

1. 1. At the request of the enforcement creditor if it is probable that the reasons for postponement have ceased.
2. 2. At the request of the enforcement creditor if they provide security.
3. 3. If postponement arose from an agreement between the parties, it can be continued with the consent of all parties.
4. 4. If enforcement was postponed at the request of the enforcement creditor or by agreement, the public enforcement officer is obliged to resume enforcement at the request of the enforcement creditor who entered the enforcement proceedings.

CONCLUSION OF THE ENFORCEMENT PROCEDURE

There are two ways to conclude the enforcement procedure in the Republic of Serbia:

- 1) Termination
- 2) Closure

Additionally, the enforcement procedure is concluded when a decision to reject or dismiss the proposal for enforcement is made final.

Termination

Article 129 of the Law on Enforcement and Security addresses the termination of the procedure and enumerates situations in which the enforcement procedure will be terminated ex officio:

1. If the enforcement instrument based on which the enforcement decision was made becomes legally invalid or is finally annulled, amended, or invalidated;
2. If the enforcement of the decision is legally annulled;
3. If the party dies and the claim is not inheritable;
4. If a legal entity ceases to exist without a legal successor;
5. If the claim ceases to exist;
6. If enforcement becomes impossible or cannot be carried out for other reasons (the subject of enforcement has ceased to exist, the enforcement debtor has no assets, etc.);
7. For other reasons specified by this or other laws.

The decision on termination also annuls all actions taken if they do not affect the acquired rights of other parties.

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In addition to the listed reasons, the enforcement procedure will be terminated if the enforcement creditor withdraws the proposal for enforcement even after the enforcement decision becomes final.

Also, the Law provides for numerous cases in which the procedure will be terminated due to the passive conduct of the enforcement creditor. This will happen, for example, in the following situations: if the enforcement creditor fails to deposit advance payments within the deadline, when a request for exemption of the public enforcement officer is granted and the court calls upon the enforcement creditor to appoint another public enforcement officer within 5 days but the enforcement creditor fails to comply with the court's order within the given deadline, when, due to the unavailability of the public enforcement officer to accept the enforcement proceedings, the court calls upon the enforcement creditor to appoint another public enforcement officer within a specified period but the enforcement creditor fails to comply with the court's order, etc.

The enforcement creditor can change the public enforcement officer during the proceedings by appointing another public enforcement officer to continue the proceedings. In this case, the proceedings before the initial public enforcement officer are terminated, and the case files are transferred to the other public enforcement officer.

There are numerous reasons that may lead to the termination of the procedure. In every situation where the enforcement creditor is required to act actively, and failure to do so results in the termination of the procedure, the enforcement creditor will be warned by the document requesting action that failure to comply with the instructions will result in the termination of the procedure.

The procedure will also be terminated due to insufficient coverage, such as when enforcement is carried out on immovable property where there are individuals with priority rights to be satisfied from the immovable property before the enforcement creditor. This means that their rights to satisfaction arose before the rights of the creditor, usually these are pledge rights that existed on the immovable property before the enforcement proceedings were initiated. In this situation, if the estimated value of the immovable property is not sufficient to satisfy the claims of individuals who have priority rights over the enforcement creditor, the enforcement procedure may be terminated. A proposal for termination can be submitted by a person entitled to be settled before the enforcement creditor.

These are not all the situations that lead to the termination of the procedure. In any case, the procedure is terminated if there is no longer a legal basis for conducting the enforcement, if enforcement becomes impossible due to various circumstances, or in the case of passive conduct by the enforcement creditor.

Conclusion of Enforcement Proceedings

As previously stated, enforcement proceedings, in addition to termination, also end with a conclusion. The conclusion occurs after the enforcement has been carried out, following the satisfaction of the enforcement creditor. The enforcement officer issues this conclusion. In practice, this conclusion is referred to as the conclusion on the conclusion of the proceedings. Through this conclusion, it is determined that the last enforcement action has been taken. However, the enforcement creditor may

propose the continuation of the proceedings if they believe that it has not been properly or entirely settled. The enforcement creditor has this right within 30 days from the date of delivery of the conclusion on the conclusion of the proceedings.

Interruption of Enforcement Proceedings

It is important to note that there are situations in which enforcement proceedings are interrupted. The reasons for interrupting the proceedings are listed in the Civil Procedure Code (Article 222 and Article 223 of the CPC).

The proceedings are interrupted if:

- a) a party dies;
- b) a party loses litigation capacity;
- c) the legal representative of a party dies or their authorization to represent ceases;
- d) a party that is a legal entity ceases to exist, or when the competent authority decisively prohibits its operation;
- e) the legal consequences of bankruptcy proceedings occur;
- f) court operations cease due to a state of war or extraordinary events;
- g) a party is located in an area that is cut off from the court (enforcement officer) due to extraordinary events;
- h) it is prescribed by another law.

This provision also applies to enforcement proceedings. If enforcement proceedings are interrupted by operation of law, the enforcement officer, upon the request of a party or ex officio, appoints a temporary representative for the party, and continues the proceedings even before the reason for the interruption ceases. This rule does not apply to interruptions of proceedings caused by the legal consequences of bankruptcy proceedings.

Halt

The principle of urgency dictates that no halt is allowed in the enforcement procedure. However, there is one situation in which a halt in the enforcement procedure will be determined, and that is when a decision on enforcement is made based on a credible document which the debtor challenges with an objection. If the debtor makes plausible claims in the objection challenging the decision in part where they are obligated to settle the claim, the procedure continues as a litigation procedure regarding the objection against the payment order. In the same decision determining the continuation of the procedure as a litigation one, a halt in the enforcement procedure will also be determined. In this case, the enforcement procedure will continue if the court in the litigation procedure renders a judgment upholding the decision on enforcement in whole or in part.

II.6 Counter enforcement

The Law on Enforcement and Security provides for the possibility of counter-enforcement. A proposal for counter-enforcement is submitted to the court when the enforcement has already been

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carried out. This proposal can be submitted by the enforcement debtor and third parties. The proposal requests the court to issue a decision obligating the enforcement creditor to return to the enforcement debtor what was received through enforcement within 8 days. The proposal should specify the means and proposal for enforcement if the enforcement creditor does not return what was received through enforcement within the given period. The proposal is submitted to the competent court. The court will dismiss the proposal if the subject and means of enforcement are not stated, and if the proposal does not contain a request for the enforcement creditor to return what was received. The proposal will be dismissed without prior return for amendment. The enforcement debtor cannot pursue claims in litigation until the deadline for proposing counter-enforcement has expired.

The Law on Enforcement and Security lists reasons for counter-enforcement, so a proposal for counter-enforcement can be submitted if:

- 1) The enforceable document has been finally or absolutely repealed, reversed, annulled or revoked or has otherwise become ineffective – within the term of 30 days from the receipt of the decision thereof by the enforcement debtor.
- 2) During the enforcement proceedings, if the enforcement debtor voluntarily settles the enforcement creditor's claim out of court, resulting in double settlement for the enforcement creditor - within the term of 30 days from the completion of the enforcement proceedings;
- 3) If the enforcement order is repealed or reversed, resulting in the proposal for enforcement being dismissed or rejected - within the term of 30 days from receipt of the decision by the enforcement debtor;
- 4) If the final court ruling determined the illicitness of the enforcement – within the term of 30 days from the receipt of the ruling by the enforcement debtor;
- 5) If the enforcement creditor receives more than their claim or if the enforcement disregarded provisions limiting enforcement in terms of wages and other permanent income - within 30 days from the date the enforcement was carried out.

The court delivers the proposal to the enforcement creditor for their response and grants them a period of 8 days from the date of delivery to respond.

The court decides on the counter-enforcement proposal by a decision that obligates the enforcement creditor to return to the enforcement debtor what was received through enforcement within 8 days and specifies the means and subject of enforcement if the enforcement creditor fails to comply with the court's order within the provided period. An appeal can be filed against this decision. If the enforcement creditor challenges the decision with an appeal, the enforcement will only be suspended if the enforcement creditor provides security equivalent to the enforcement debtor's claim with the appeal. This rule applies only to appeals that challenge the entire decision or part of the decision by which the enforcement creditor is obliged to return what was received to the enforcement debtor. If

the appeal challenges only the part of the decision determining the subject and means, this appeal does not suspend the enforcement, and there is no possibility of suspending the enforcement with the provision of security.

The proposal will be rejected in case of impossibility of counter-enforcement. This will occur when there are such factual or legal changes regarding the enforcement subject that its return is no longer possible.

Third parties can also submit a counter-enforcement proposal in situations where the illicitness of enforcement is determined by a final court decision. This third-party proposal can be submitted within 30 days from the date of receiving the decision determining the illicitness of enforcement.

II.7. Objects and exemptions on enforcement

Exemption from Enforcement

Although the primary goal of the enforcement procedure is to settle the creditor, and the principle of urgency applies in the enforcement procedure, there are certain limitations regarding the objects of enforcement aimed at protecting the enforcement debtor. The enforcement procedure cannot be conducted solely for the purpose of settling the enforcement creditor, but it is necessary to also consider the enforcement debtor and their life circumstances. In this regard, there are objects exempted from enforcement to ensure dignified living conditions for the enforcement debtor undergoing enforcement and to prevent them from falling into severe deprivation. For this reason, the Law on Enforcement and Security enumerates what cannot be the subject of enforcement. When determining what cannot be the subject of enforcement (from movable property to certain income of the enforcement debtor), consideration is given to items necessary for the enforcement debtor in their everyday life, up to items that hold sentimental value for the enforcement debtor, as well as the basis on which the enforcement debtor receives certain funds.

In the Republic of Serbia, the following movable items cannot be subject to enforcement:

- 1) Clothing, footwear, and other items for personal use, bedding, dishes, a portion of furniture necessary for the enforcement debtor and members of their household, stove, refrigerator, and heating stove;
- 2) Food and firewood necessary for the enforcement debtor and members of their household for three months;
- 3) Cash on hand of the enforcement debtor who has permanent monthly income up to the monthly amount exempted from enforcement by law, proportionate to the time until the next income;
- 4) Orders, medals, war memorabilia, and other decorations and acknowledgments, personal letters, manuscripts, and other personal records, and family photographs of the enforcement debtor;

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- 5) Aids necessary for persons with disabilities or other individuals with physical impairments to perform life functions;
- 6) Pets

In terms of immovable property, the following limitation exists:

- Agricultural land of a farmer up to 10 ares cannot be subject to enforcement. (This rule does not apply when satisfying monetary claims secured by contractual mortgage or pledge statement.)

Additionally, the following means cannot be subject to enforcement:

- 1) Income based on statutory maintenance, compensation for health damage, monetary rent due to complete or partial incapacity for work, and maintenance allowance lost due to the death of the maintenance debtor;
- 2) Income based on monetary compensation for bodily injury according to disability insurance regulations;
- 3) Income obtained according to social security regulations;
- 4) Income based on temporary unemployment;
- 5) Income based on the law regulating financial support to families with children;
- 6) Income based on scholarships and aid to pupils and students;
- 7) Claims whose transfer is prohibited by law.

Limitations

In addition to exemptions, there are also limitations on enforcement. Exemptions refer to items on which enforcement cannot be conducted at all. There are assets and means of enforcement on which enforcement can be carried out, but the scope of enforcement is limited. This issue is also regulated by the Law on Enforcement and Security (Article 258) and pertains to the income of the enforcement debtor.

Limitations on enforcement:

- 1) Enforcement on wages or salaries, wage compensation, or salary compensation may be carried out up to one-half of the wage, wage compensation, salary, or salary compensation, if their amount is equal to or less than the minimum wage established in accordance with the law.
- 2) Enforcement on wages or salaries, wage compensation, or salary compensation that does not exceed the average net wage amount according to the latest published data of the Republic authority responsible for statistical affairs may be carried out up to one-third of their amount.
- 3) (The same applies to the salary of officers, non-commissioned officers, contract soldiers, military officials, and the income of persons in the reserve during military service).
- 4) Enforcement on the minimum wage is carried out up to one-quarter of its amount.
- 5) Enforcement on pensions may be carried out up to one-third of their amount.
- 6) Enforcement on pensions that do not exceed the average pension amount according to the latest published data of the Republic Pension and Disability Insurance Fund may be carried out up to one-quarter of their amount.

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- 7) Enforcement on pensions whose amount does not exceed the minimum pension amount may be carried out up to one-tenth of their amount.
- 8) For the settlement of claims based on legal maintenance, enforcement on income from points 1-6 may be carried out up to half of the income.
- 9) Enforcement on income of war and peace-time military invalids based on disability pension, orthopaedic supplement, and disability supplement may only be carried out up to half of their amount, and only to satisfy claims based on legal maintenance, compensation for health damage, monetary rent due to complete or partial incapacity for work, and monetary rent for maintenance lost due to the death of the maintenance debtor.
- 10) Enforcement on income based on compensation for damages in the form of a monetary rent that is not exempt from enforcement, as well as under a life maintenance contract and life insurance contract, may only be carried out on the portion of income exceeding the amount of the highest permanent social assistance paid in the area where the enforcement debtor is domiciled or resides.

In this way, the law protects enforcement debtors from being placed in an unfavourable and difficult position. What is often encountered as a problem in practice when discussing limitations is that the previous provisions of the Law on Enforcement and Security continue to apply to those procedures initiated before the adoption and entry into force of the latest Amendments to the Law on Enforcement and Security, as well as the previous Law on Enforcement and Security, which applies to procedures initiated during the validity of that regulation. The limitations in the previous regulation are set differently, less favourably for debtors. Debtors often complain about the work of public enforcement officers, emphasizing that the limitations under the new regulation have not been applied because they do not understand that the provisions of the new regulation, as well as amendments to the regulation, cannot be applied to procedures that were ongoing at the time of the adoption of the new law and at the time of the adoption of amendments and supplements to the law.

Enforcement against Property of a Foreign State

Article 22 of the Law on Enforcement and Security stipulates that enforcement proceedings and security proceedings cannot be conducted on the property of a foreign state or international organization in the Republic of Serbia without the prior written consent of the ministry in charge of foreign affairs, except if the foreign state or international organization has explicitly consented to it.

II.8 (Court) penalties and fines

In the Republic of Serbia, there is the possibility of imposing penal measures during enforcement proceedings (monetary fines that can be replaced by imprisonment) in certain cases. This type of penal measure aims to punish the party that does not respect the court, public enforcement officer, or another participant in the proceedings, as well as to exert pressure on the party that does not comply with the orders of the court or public enforcement officer in situations where it is necessary for justified reasons and when there is no other possibility to enforce compliance.

Monetary penalty for disobeying the court, public enforcement officer, and other participant

The court imposes a fine on the party, participant in the proceedings, or other individual who, through their conduct, disrespects the court, public enforcement officer, party, and other participants in the proceedings, even when enforcement is carried out by a public enforcement officer. (Article 38 of the Law on Enforcement and Security)

Imposition of Monetary Penalty

A monetary penalty is imposed on the enforcement debtor who alienates, conceals, damages, or diminishes their property or undertakes actions that may cause irreparable or difficult-to-repair damage to the enforcement creditor, who obstructs the court or public enforcement officer from undertaking specific enforcement or security actions, behaves contrary to the security decision, disrupts the operations of the organization for forced collection, or the employer or anyone executing a decision based on an enforcement or credible document, or obstructs or hinders the inspection of immovables or the inventory of movable property or the assessment of their value.

A monetary penalty may be imposed on the enforcement debtor, debtor of the enforcement debtor, bank, employer of the enforcement debtor, Business Registers Agency, Central Securities Depository, Republic Geodetic Authority, and guardian authority if they do not comply with the court or public enforcement officer's order or prohibition, and banks if they do not comply with the organization for forced collection's order or prohibition.

A monetary penalty is also imposed on any other person who obstructs or prevents the enforcement process.

The court imposes a monetary penalty by decision, on its own initiative or at the request of the enforcement creditor or public enforcement officer, taking into account the significance of the action or omission for which the penalty is imposed. The person to whom the monetary penalty is imposed is instructed in the decision that they may be subject to a new monetary penalty, and the enforcement debtor is informed about the possibility of substituting the monetary penalty with a prison sentence.

For individuals (natural persons), sole proprietors, entrepreneurs, and responsible persons in legal entities or state bodies, a monetary penalty ranging from 10,000 dinars (about 85 EUR) to 200,000 dinars (about 1.710,00 EUR) may be imposed, while for legal entities or state bodies, the penalty ranges from 100,000 dinars (about 855 EUR) to 2,000,000 dinars (about 17.094,00 EUR).

A monetary penalty may be imposed again until the reasons for its imposition cease. An objection is allowed against the decision to impose a monetary penalty.

In addition to the provisions of the Law on Enforcement and Security (LES), individual cases are regulated where a fine will be imposed on the enforcement debtor or another person for refusing to comply with the order of the court or public enforcement officer. These cases typically involve actions

that only the enforcement debtor can take, or situations where the enforcement debtor is obligated to endure or refrain from certain actions but fails to do so.

The monetary fine can be replaced with a prison sentence if it is not paid within the specified period. The deadline for paying the monetary fine is eight days from the delivery of the decision imposing the fine. If the fine is not paid within the deadline, the court that imposed the fine immediately issues a decision on the enforcement of the monetary fine, including the costs of imposition and enforcement. An objection is allowed against this decision. The enforcement is carried out by the court or public enforcement officer, depending on who is conducting the enforcement proceedings in relation to which the decision imposing the monetary fine was made. If the public enforcement officer or court bailiff informs the court that the enforcement of the monetary fine cannot be carried out, the court that imposed the fine immediately issues a decision in which every 1,000 dinars (about 8,5 euro) of the monetary fine is replaced by one day of imprisonment, up to a maximum of 60 days. If the reasons for which the monetary fine was imposed cease to exist, the court may, by a decision against which no appeal is allowed, order that the monetary fine be reduced or not enforced. The judgment debtor is informed about this in the decision imposing the monetary fine. An objection is allowed against the decision replacing the monetary fine with a prison sentence, which suspends the enforcement of the decision.

II.9 Acces to information on the domicile and assets of the debtor

In the enforcement procedure aimed at settling the enforcement creditor, it is crucially important to have access to data regarding the assets of the enforcement debtor from which the enforcement creditor's claim can be satisfied. To carry out enforcement on the assets of the enforcement debtor, the public enforcement officer must first and foremost identify the assets. As a rule, the enforcement creditor will specify in the proposal on which subjects and means the enforcement will be carried out, although most often enforcement creditors state in the proposal for enforcement that enforcement will be carried out on the entire estate of the enforcement debtor. The enforcement creditor is not obliged to specify the assets of the enforcement debtor precisely, and often this information will not be available to the enforcement creditor.

The previous Law on Enforcement and Security (the 2011 Law) provided for the possibility for the enforcement creditor who initiated the enforcement procedure to submit a request to the court for obtaining a statement of assets from the enforcement debtor when the obligation of the enforcement debtor consisted of monetary payments. In that case, the court would issue a decision ordering the enforcement debtor to appear in court to provide a statement of assets on record before the court or to submit a statement of assets to the court. The previous regulation stipulated that the enforcement debtor would be fined if they failed to appear in court to provide a statement of assets or failed to submit a statement of assets to the court, as well as in cases where an incomplete statement of assets was provided.

The current regulation does not provide for the possibility of the enforcement creditor requesting the court to order the enforcement debtor to provide a statement of assets. The reason for this is that the obligation to obtain information about the assets of the enforcement debtor has been transferred to

the procedural body, the public enforcement officer. In this regard, the current Law on Enforcement and Security stipulates the manner in which the public enforcement officer obtains information about the assets of the enforcement debtor, as well as the obligation of state bodies, holders of public authorizations, other legal entities, and entrepreneurs to provide the public enforcement officer with information about the enforcement debtor free of charge. These data include all necessary information, not just information about assets. This includes data about the enforcement debtor, such as the address of residence. In the Republic of Serbia, the public enforcement officer is the holder of public authorizations entrusted by the state. The public enforcement officer may obtain information about the enforcement debtor and the assets of the enforcement debtor only for the purposes of the procedure. As a rule, the public enforcement officer will obtain data for each procedure involving the same enforcement debtor for the sake of data accuracy. Generally, the public enforcement officer is required to specify the case number for which they request information about the enforcement debtor, and the document providing the information will also typically bear the case number under which the procedure is conducted before the public enforcement officer, along with which the data is submitted.

he Law on Enforcement and Security regulates this matter in Article 31, which prescribes the obligation to provide data to the public enforcement officer. This duty applies, as previously noted, to state bodies, holders of public authorizations, other legal entities, and entrepreneurs who are obliged to provide the public enforcement officer with data about the enforcement debtor, including:

- 1) Full name or business name;
- 2) Address of residence or domicile;
- 3) Date of birth;
- 4) Unique citizen identification number;
- 5) Tax identification number;
- 6) Information about the amount of wages and other regular financial earnings, their payers, and information about wage garnishments or administrative bans on wages and other regular financial earnings;
- 7) Account numbers, savings deposits, and deposits in banks, their balance and turnover, and information about seizures on them;
- 8) Information about payment accounts and issued electronic money with payment service providers and electronic money issuers, the balance and turnover on these accounts, or regarding electronic money, and information about seizures on them;
- 9) Numbers of accounts with financial instruments and their balance;
- 10) Information about shares in companies or other participation in legal entities and the profit realized by the enforcement debtor based on that in the last year;
- 11) Information about immovable property on which or concerning which the enforcement debtor has property rights;
- 12) Data from the records of registered motor and trailer vehicles;
- 13) Data from the Register of Aircraft of the Republic of Serbia and the Registry of Watercraft of the Republic of Serbia and the relevant registry of vessels;
- 14) Data from the records of movable property;
- 15) Information about pension and health insurance;
- 16) Data from personal status registers;

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- 17) Information about life and property insurance;
- 18) Data from the tax administration on tax returns for the last three years;
- 19) Identification data about parties that have concluded a legal transaction, a copy of the legal transaction document, and if there is no document, information about the content of the legal transaction or action related to:
- 20) Encumbrances with which the enforcement debtor has disposed of their property for the benefit of other persons in the last year;
- 21) Encumbrances with which the enforcement debtor has disposed of their property for the benefit of their spouse, extramarital partner, relative in the direct line or up to the fourth degree of collateral relationship, or testamentary heir up to the fourth degree of collateral relationship in the last three years;
- 22) Gratuitous dispositions in the last three years, except customary suitable gifts, reward gifts, or gifts of gratitude, the value of which is proportionate to the enforcement debtor's financial capabilities.

In order to obtain data, the public enforcement officer must present the enforcement order, except when acquiring data through the Judicial Information System (JIS) in accordance with the law regulating electronic administration. The data obtained can only be processed by the court and the public enforcement officer for the purpose of determining the assets of the enforcement debtor and carrying out the enforcement. Although the Law on Enforcement and Security does not stipulate that this data can only be processed in the proceeding in which it is requested, it is indirectly implied that if another enforcement procedure is initiated later with the same enforcement debtor, the public enforcement officer or the court will obtain the data again for that procedure because they must demonstrate the enforcement decision. Additionally, it is advisable to reacquire the data for data accuracy. In addition to the listed data, the Law on Enforcement and Security allows the court and the public enforcement officer to request other data necessary for the effective conduct of the proceeding. The types of data will vary from case to case.

In addition to the obligation to provide data to the public enforcement officer, state authorities, holders of public authority, other legal entities, and entrepreneurs are required to provide data (excluding data from tax returns) free of charge to the enforcement creditor or the creditor's attorney who specifies the claim for which they intend to conduct enforcement proceedings (or security proceedings) and attaches the enforcement document or promissory note containing the claim. The obtained data may only be used by the enforcement creditor and the creditor's attorney for the purposes of the enforcement proceedings, and data regarding the legal transactions of the enforcement debtor may be used only to challenge the legal actions of the enforcement debtor for the purposes of enforcing the proceedings (for example, if the enforcement debtor has gifted any of their belongings to another person to prevent enforcement on that property, the enforcement creditor can challenge this action). A special rule applies when the enforcement creditor is a provider of public utilities. In this case, the law allows this enforcement creditor, based on a credible document, to obtain data on the unique personal identification number of the enforcement debtor. The data must be provided within a period of eight days from the date of receipt of the request for delivery.

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There are also limitations on the obligation to provide data, primarily regarding whether the data is publicly available or if there are registries that are freely accessible to the court and the public enforcement officer. In such situations, the enforcement authority will obtain the data directly from the registry. The same applies to the enforcement creditor and the enforcement creditor's lawyer. Additionally, when the assets of the enforcement debtor exceed the amount of the enforcement creditor's claim, the state authority, holder of public powers, other legal entities, and entrepreneurs are obliged to inform only the court, public enforcement officer, enforcement creditor, or the creditor's lawyer acting as their representative, that the assets of the enforcement debtor are sufficient to satisfy the enforcement creditor.

In the Republic of Serbia, electronic services have been progressively enhanced over time, facilitating and expediting the work of state authorities and holders of public powers. Through these advancements, public enforcement officers now have access to various data maintained electronically. Public enforcement officers access this data through the Judicial Information System (JIS). Within the framework of JIS, the following data are available to public enforcement officers:

- 1) The Agency for Business Registers (ABR) service for data on registered entities (business entities - legal entities and entrepreneurs),
- 2) Central Register of Compulsory Social Insurance (CRCSI) service for data on mandatory social security registrations for individuals (through this service, it is possible to see if an individual is employed and with which employer, as well as if they are a pensioner or recipient of social assistance),
- 3) Service for data from the registry of individuals subject to criminal sanctions and measures,
- 4) Service for data from the prison absence registry,
- 5) Ministry of Internal Affairs Service for residence data,
- 6) Ministry of Public Administration and Local Self-Government (MPALSG) service for data from civil registries (place and date of birth, parents' names, full name, marital status, unique citizen identification number),
- 7) Agency for Business Registers (ABR) service for data from the registry of related persons and roles,
- 8) Republic Geodetic Authority (RGA) service for data from the immovable property registry,
- 9) Service for data from the registry of individual participants in proceedings,
- 10) Service for data from the registry of legal entities participating in proceedings,
- 11) Tax Administration Service for sending requests for information and receiving responses,
- 12) Service of the Republic Pension and Disability Insurance Fund for data on payments made.

In this way, public enforcement officers have the ability to directly access a large number of data about the property of the enforcement debtor, which contributes to the efficiency and cost-effectiveness of the procedure.

Additionally, the Ministry of Justice has developed a new functionality that enables the automation of machine-readable data from the Judicial Information System (from services such as CRCSI, ABR, RGA, etc.), whose structure allows public enforcement officers to develop alarms within their commercial systems for case management, such as: if the enforcement debtor is employed, deceased, acquired immovable property, changed residence, or became a member or director of a company, or if there has been any immovable property turnover or encumbrance registered by the notary public.

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The public enforcement officer is obliged to keep as a business secret the data obtained while performing duties and must not use them for personal or other benefits. This obligation does not cease with the cessation of the public enforcement officer's activities. This obligation also applies to the deputy public enforcement officer and assistant public enforcement officer. Violation of the duty of confidentiality constitutes a severe disciplinary offense. Additionally, disclosing personal, family, and material circumstances of parties and participants in the proceedings learned by the public enforcement officer during the performance of duties also constitutes a severe disciplinary offense.

PART III ORGANIZATION OF ENFORCEMENT

III.1 The status of the judicial officer

Appointment of Public Enforcement Officers

In the Republic of Serbia, public enforcement officers exercise public authorities entrusted to them by law. They perform their activities as entrepreneurs or as members of a partnership company whose members are exclusively public enforcement officers. Their number is determined by the Minister of Justice. The Law on Enforcement and Security prescribes a rule that one public enforcement officer is appointed for every 25,000 inhabitants, with the Minister having the authority to appoint a larger number of public enforcement officers if the need arises. The exact number of public enforcement officers is specified by a bylaw – the Regulation on Determining the Number of Enforcement Officers ("Official Gazette of RS", No. 61 of June 11, 2014). This regulation specifies the number of public enforcement officers for each official area in the Republic of Serbia (for the area of higher and commercial courts for which public enforcement officers are appointed).

Public enforcement officers are entitled to remuneration for their work in accordance with the Enforcement Officers Tariff prescribed by the Minister.

To qualify for the position of public enforcement officer, an individual must meet the conditions prescribed by the Law on Enforcement and Security. Public enforcement officers are appointed by the Minister and are appointed for the area of commercial and higher courts. The Minister can only appoint an enforcement officer who meets the conditions prescribed by law.

Requirements for the Appointment of Public Enforcement Officers (Article 471 of the Enforcement and Security Act)

A legally capable person, being a citizen of the Republic of Serbia, may be appointed as a public enforcement officer if they meet the following criteria:

- 1) They graduated at the Faculty of Law and passed the public enforcement officer license exam and the bar exam;
- 2) They completed the initial training and have at least two years of professional experience in legal affairs after having passed the bar examination;
- 3) They are worthy of the activity of the public enforcement officer;
- 4) The general partnership they are members of is not being under bankruptcy proceedings;
- 5) They are not subject to criminal proceedings for a crime against legal transactions or official duty, were not convicted of a crime and sentenced to an unconditional prison term of at least six months or of a punishable offence which making them unworthy of the public enforcement officer activity.

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A person who has been dismissed of duties as a public enforcement officer or a notary public, who was imposed with a disciplinary measure of removal from the register of attorneys, or who was discharged of judicial functions or functions of a public prosecutor or deputy public prosecutor cannot be appointed as a public enforcement officer.

Worthiness to perform activity of a public enforcement officer is determined according to generally accepted moral norms and the Code of Professional Ethics for Public Enforcement Officers and Standards of Professional Conduct for Public Enforcement Officers.

Public enforcement officers are appointed following a public competition announced by the minister and conducted by a Competition Commission. The Competition Commission prepares a proposal of candidates for appointment with an explanation and submits it to the minister. When preparing the proposal of candidates, the Competition Commission considers the length and type of work experience in legal matters, overall success in the bar examination and the examination for public enforcement officers, as well as professional knowledge and skills useful for the activity of a public enforcement officer (professional specializations, knowledge of foreign languages, etc.).

The Chamber of Public Enforcement Officers has issued a bylaw called the " Code of Professional Ethics for Public Enforcement Officers " This act is based on the General Principles and Standards of Professional Ethics of the International Union of Judicial Officers and the Global Enforcement Code. It regulates general principles and standards of professional and ethical conduct that guide public enforcement officers in their work to strengthen their professionalism and morality, considering the exceptional importance of the activities of public enforcement officers as a public trust service and the principles of the rule of law. Public enforcement officers are obliged to adhere to the Code of Professional Ethics, and any violation of this code constitutes a disciplinary offense.

The code prescribes the basic principles that public enforcement officers must adhere to, the moral qualities they must possess, their conduct towards parties and participants in proceedings, their relations with third parties and institutions, their relations with the media, participation in public gatherings, relations with other public enforcement officers, with supervisory authorities, and especially the relations of public enforcement officers with the Chamber of Public Enforcement Officers, etc.

To implement and improve the provisions of the Code, an Ethics Committee is established within the Chamber as a permanent working body. The Ethics Committee consists of five members, elected from among the ranks of public enforcement officers, and its members are elected by the Executive Board. The mandate of Ethics Committee members lasts for four years. The Ethics Committee appoints its president from among its members. The Ethics Committee adopts positions and opinions within its jurisdiction.

In addition to the aforementioned bylaw, there is also a Regulation on Standards of Professional Conduct for Public Enforcement Officers issued by the minister. This regulation prescribes the

standards of professional conduct that a public enforcement officer must fulfil when exercising entrusted public powers.

Jurisdiction of public enforcement officers

A public enforcement officer carries out the enforcement of decisions based on an enforceable or credible document and decisions on preliminary or interim measures issued by the court for the jurisdiction in which they are appointed (jurisdiction of the public enforcement officer). They may also take actions outside the jurisdiction of the court for which they are appointed, either independently or through a public enforcement officer from another jurisdiction.

The authority of public enforcement officers

Identifying assets and collecting other information about enforcement debtor

According to the Article 31 of the Law on Enforcement and Security public enforcement officer has the right to access all relevant registries that contain information about enforcement debtor and his/her assets. State organs, bodies, legal entities, banks and entrepreneurs have a duty to respond to the request submitted by public enforcement officer and to provide information following the provisions of Law on Enforcement and Security. These information may only be used for the purpose of conducting enforcement procedure.

Sole jurisdiction for ordering and conducting enforcement

After 2019 amendments to the Law on Enforcement and Security public enforcement officers have been transferred sole jurisdiction for ordering and conducting enforcement in two situations: 1) collection of money claims for utilities and other similar services based on enforcement titles and authentic documents and 2) collection of money claims against the state, municipalities and budget users based on enforcement titles and authentic documents. These two types of enforcement procedure are in exclusive competence of public enforcement officers. The role of enforcement courts is reduced to deciding upon legal remedies lodged against decisions and actions performed by public enforcement officers.

Sole jurisdiction for conducting enforcement

Latest novels to the Law on Enforcement and Security have also expanded sole jurisdiction of public enforcement officers for conducting enforcement in enforcement cases where the enforcement court is only competent for issuing enforcement order. In these enforcement cases the jurisdiction of public enforcement officers for conducting enforcement is a rule and jurisdiction of enforcement courts for conducting enforcement is reduced to exceptions. The enforcement court shall be competent for conducting enforcement in following situations: 1) enforcement of enforcement titles related to an action that can only be performed by enforcement debtor, non-action and sufferance; 2) employee reinstatement; 3) enforcement of family law decisions without collection of claim for statutory maintenance; 4) enforcement means that are being conducted by enforcement courts in accordance with the provisions of special laws. Implementation of all other enforcement means is in sole jurisdiction of public enforcement officers.

Service of decisions and other documents

In enforcement cases that are exclusively conducted by public enforcement officers they shall also be competent for serving decisions of the courts, their own decisions and other documents. Competence for serving decisions and documents is connected with competence for conducting enforcement.

Resolving old court enforcement cases

We have stated before that enforcement courts have shown lack of capacity to conduct enforcement in lines with the standards set by ECtHR and Serbian Constitutional Court. That was the main reason for introducing public enforcement officers in Serbian judicial system. 2019 Amendments to the Law on Enforcement and Security have resolved the backlog within enforcement courts. Old enforcement cases that haven't been conducted by enforcement courts for years and decades are now being transferred to public enforcement officers. Since they have provided higher level of efficiency it is expected that these cases shall be terminated by public enforcement officers. The precise number of these cases is still not known and these cases should be transferred to the public enforcement officers gradually so that they could deal with other enforcement cases expeditiously. Public enforcement officers shall receive only 25% of initial advance payment for these enforcement cases (Separate Article 166 of the Law on Amendments to the Law on Enforcement and Security).

Powers of public enforcement officers in accordance with the provisions of special laws

Public enforcement officers have also received some powers based on the provisions of special laws. Article 493 of the Law on Enforcement and Security stipulates that besides competences designated by this law, public enforcement officers may also exercise other powers if that possibility is provided for in the provisions of special laws.

For example, according to the Law on Court Fees public enforcement officers have sole jurisdiction for collecting court fees against enforcement debtors natural persons. Previously the courts have been in charge for collecting these fees and the success rate was very low. That was the main reasons for transferring this enforcement procedure to public enforcement officers. For dealing with these cases they are entitled to 10% of the collected sum.

The possibility of transferring new powers to the public enforcement officers hasn't been used by other laws dealing with special enforcement procedures (Law on Administrative Procedure, Law on Misdemeanours, Law on Tax Administration, etc).

Duties of public enforcement officers in accordance with the Law on Enforcement and Security

Respecting laws, bylaws and court decisions

In discharging his/her powers public enforcement officer has to respect the Law on Enforcement and Security, other laws and bylaws as well as the court decisions. His/her failure to do so represents severe disciplinary violation (Article 494 of the Law on Enforcement and Security).

Mediation between enforcement creditor and enforcement debtor

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The most desirable way for terminating enforcement is reaching some kind of agreement between enforcement creditor and enforcement debtor. In that regard public enforcement officer has a duty to mediate between the parties to the proceedings (Article 137 of the Law on Enforcement and Security). We shall thoroughly analyse this duty in the next chapter.

Maintaining confidentiality

Public enforcement officer has to keep as a business secret all information he/she has gathered during enforcement procedure. These information may not be used for himself/herself or for the benefit of other persons. This duty also exists after public enforcement officer has ended with his/her activities. Acting contrary to this duty constitutes severe disciplinary violation (Article 494 of the Law on Enforcement and Security).

Respecting Code of Ethics and Professional Standards

The most important bylaws setting standards for performing duties of public enforcement officers are contained in Code of Ethics enacted by Chamber and in Professional Standards enacted by Minister of Justice. Violation of these duties that has been repeated in number of cases represents severe disciplinary violation (Article 497 of the Law on Enforcement and Security).

Undergoing initial and ongoing training

Before the appointment public enforcement officer must undergo initial training, the program of which is determined by Chamber. After the appointment public enforcement officer must undergo permanent training. The program of this training is defined by Chamber. Keeping records of these trainings is also in competences of the Chamber. If public enforcement officers fails to perform this duty he/she shall be disciplinary liable in accordance with the Law on Enforcement and Security (Article 499 of the Law on Enforcement and Security).

Duty of having accounts

Public enforcement officer must have at least one special account used to pay funds collected in the course of enforcement procedure. These funds cannot be seized for fulfilment of public enforcement officer's obligation. He/she has at least one separate account for collection of his/her fees (Article 500 of the Law on Enforcement and Security).

Declaration of assets and financial report

On the day of his appointment and once a year public enforcement officer must submit declaration of assets to the Chamber. There is also a duty of sending annual financial report. The Chamber shall have the competence to verify information contained in these reports by comparing it with the registries of state organs and other bodies (Article 501 of the Law on Enforcement and Security).

Business report

Once a year public enforcement officer has to send business report to the Ministry of Justice and to the Chamber. Information contained in these report shall be accessible on the website of Ministry of Justice. Public enforcement officer has to submit daily business report containing information from his/her record about enforcement procedures in progress. This report is also sent to the Ministry of Justice (Article 502 of the Law on Enforcement and Security).

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Keeping records of enforcement cases in progress

Public enforcement officer must keep record on enforcement procedures and his/her finances. The elements of these records are determined in Law on Enforcement and Security. Part of these records is accessible for general public. Public enforcement officer has to keep these records properly, otherwise he/she shall be disciplinary liable (Article 503 of the Law on Enforcement and Security).

Duty of paying contribution to the Chamber

Contribution consists of fixed and variable part. It has to be paid in accordance with the bylaw enacted by the Chamber. If public enforcement officer fails to pay contribution for three consecutive months or for six months within calendar year, that shall constitute severe disciplinary violation (Article 504 of the Law on Enforcement and Security).

Liability for damages

Public enforcement officer is liable for any damage caused by performing his/her duties. Republic of Serbia shall not be accountable for damage done by public enforcement officers (Article 498 of the Law on Enforcement and Security).

Reasons for Termination of Activity (Article 484)

The activity of a public enforcement officer terminates upon personal request, upon reaching retirement age, or upon dismissal.

A public enforcement officer who has reached retirement age or has been dismissed is removed from the Register of Public Enforcement Officers and Deputy Public Enforcement Officers.

Termination of Activity at the Request of a Public Enforcement Officer (Article 485)

A public enforcement officer may request from the ministry to terminate their activity by removal from the Register of Public Enforcement Officers and Deputy Public Enforcement Officers. In any case, the activity of a public enforcement officer ceases if they are not removed from the Register of Public Enforcement Officers and Deputy Public Enforcement Officers within 30 days from the date of submission of the request.

Termination of Activity Due to Retirement Age of the Public Enforcement Officer (Article 486)

The activity of a public enforcement officer terminates by operation of law upon reaching retirement age. Retirement age is reached upon turning 67 years of age. The Minister determines the reaching of retirement age of a public enforcement officer by writ.

Reasons for the dismissal of a public enforcement officer (Article 487):

- 1) If they cease to meet the requirements for the activity of a public enforcement officer;

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- 2) If they concealed a legal impediment on which the appointment of the public enforcement officer depends;
- 3) If they establish an employment relationship;
- 4) If they accept a public function or a function in the management or supervisory body of a company or engage in security, advocacy, or notary activities, or other paid professions or activities incompatible with the activity of a public enforcement officer;
- 5) If they fail to pay the premium for insurance against damage that they may cause to another person through their activity or the premium for insurance of premises and objects received on deposit in case of their damage, destruction, or loss;
- 6) If there is significant discrepancy between the data in the asset report and the actual assets of the public enforcement officer;
- 7) If the disciplinary measure of permanent ban of performance of activities of a public enforcement officer is imposed against him/her;
- 8) Upon being finally convicted of a criminal offense to an unconditional prison sentence of at least six months or for a criminal offense against legal transactions or official duties or for a punishable offense that renders them unworthy of the activity of a public enforcement officer.

The procedure for dismissing a public enforcement officer is initiated by the minister, upon the proposal of the Chamber or on their own initiative. The public enforcement officer is given the opportunity to state their position before the minister regarding whether there are grounds for dismissal, except when they have been subject to a disciplinary measure of a permanent ban on the activity of a public enforcement officer. The decision on whether there are grounds for dismissal is made by the minister.

When a public enforcement officer ceases their activity, their deputy continues it, and if there is no deputy, the minister appoints another public enforcement officer from that area who temporarily assumes their office. The minister is obliged to announce a competition for the appointment of a new public enforcement officer within 90 days.

Liability for damage

The public enforcement officer is personally liable with their entire property for any damages caused by their fault in the course of enforcement or security proceedings. The Republic of Serbia is not liable for any such damages. The public enforcement officer and their deputy are jointly liable for the damage caused by the deputy's work. The public enforcement officer is liable for the damage caused by the assistant in the course of enforcement or security proceedings (Article 509).

Additionally, before taking the oath (and thereby commencing their activity), the public enforcement officer is obliged to conclude insurance contracts for the damage they may cause to third parties and for the premises and objects received in deposit in case of their damage, destruction, or disappearance (Article 478).

The minister prescribes the general conditions for concluding insurance contracts for the damage that the public enforcement officer may cause to third parties and for the insurance of premises and objects received in deposit in case of their damage, destruction, or loss, as well as the minimum

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amount of both insurances. These conditions are prescribed by the Regulation on General Conditions for Concluding Insurance Contracts for Public Enforcement Officers ("Official Gazette of RS", No. 62 dated July 13, 2016).

Duration of Insurance: The insurance period (coverage period) lasts for 12 months.

Types of Risks Covered: The insurance coverage includes common risks according to the general insurance terms: burglary and robbery, fire, flood, or consequences of any other natural disaster.

Insurance Amount per Insured Event - For the insurance of the public enforcement officer's liability:

- At least €100,000 in dinar equivalent according to the middle exchange rate of the National Bank of Serbia valid on the day of concluding the insurance contract.

For the insurance of premises of the public enforcement officer:

- At least €20,000 in dinar equivalent according to the middle exchange rate of the National Bank of Serbia valid on the day of concluding the insurance contract.

For the insurance of items received in deposit by the public enforcement officer:

- At least €30,000 in dinar equivalent according to the middle exchange rate of the National Bank of Serbia valid on the day of concluding the insurance contract.

The insurance of the public enforcement officer's liability also covers the insurance of liability for errors of the deputy public enforcement officer, assistant public enforcement officer, persons working under the public enforcement officer, and persons acting on behalf of and for the account of the public enforcement officer in carrying out certain enforcement and security measures.

Disciplinary Accountability of Public Enforcement Officers

Public enforcement officers are disciplinary accountable in case of infringement of law and other regulations, failure to fulfill responsibilities under the Articles of Association (Statute of the Chamber) and other regulations or general acts of the Chamber, or in case of violation of reputation of public enforcement officers. Criminal or misdemeanor accountability does not preclude the disciplinary accountability.

Types of Disciplinary Violations

Disciplinary violations can be minor or severe. Minor disciplinary violations are set by the Statute of the Chamber. Severe disciplinary violations are set by the Law on Enforcement and Security or other laws. Minor disciplinary violations are listed in Article 65 of the Statute of the Chamber of Public Enforcement Officers. Severe disciplinary violations are prescribed by the Law on Enforcement and Security in Article 527.

Disciplinary violations:

Minor disciplinary violations are prescribed by a bylaw - the Statute of the Chamber in Article 65.

A minor disciplinary violation is:

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- 1) unjustified absence of a member of the Assembly, i.e. his/hers deputy or assistant at the scheduled session of the Assembly;
- 2) non-compliance with orders and decisions of the competent bodies of the Chamber, i.e. failure to act in accordance with the orders and decisions of the competent bodies of the Chamber;
- 3) failure to submit business reports within the prescribed period to the Ministry and the Chamber;
- 4) failure to act in accordance with other regulations and general acts of the Chamber;
- 5) non-payment of membership fees on time and
- 6) non-submission of statements on submitted complaints, as well as case files.

Severe disciplinary violations are prescribed by the Law on Enforcement and Security in Article 527.

A severe disciplinary violation is:

- 1) carrying out enforcement, even if the public enforcement officer had no jurisdiction to do so;
- 2) frequent tardiness in adoption of writs and conclusions in enforcement proceedings or security proceedings or untimely undertaking of actions that directly implement out enforcement or security in a number of cases;
- 3) informing the court, ie the enforcement creditor that the public enforcement officer is prevented from accepting the implementation or continuation of enforcement even though there is no impediment (Article 69, paragraph 1 and Article 140);
- 4) infringement of rules on serving of writs or conclusions of the court or public enforcement officer due to which the party or participant in the procedure has lost some procedural right;
- 5) setting, amending or adding instruments and subjects of enforcement that severely infringe the principle of proportionality (Article 56);
- 6) setting, amending or adding instruments and subjects of enforcement which have been exempt from the enforcement or for which enforcement has been limited, which ensue upon adoption of the writ of execution based on an enforceable or credible document;
- 7) repeating the same action of enforcement or security, in order to increase the proceedings costs;
- 8) undertaking actions in spite the reasons for expulsion (Article 495, paragraphs 1 and 2) or the adopted writ of recusal;
- 9) failure to adopt a writ to dismiss the motion for enforcement in case when the enforcement creditor, enclosed with the motion for enforcement, fails to submit to the public enforcement officer the response of the Chamber from which it follows that exactly he was the appointed public enforcement officer, od fails to submit evidence that the Chamber has not replied to the request of the enforcement creditor within the term of five days (Article 300 and Article 393, paragraph 4);
- 10) charging remuneration or reimbursement of expenses contrary to the Schedule of Fees of the Public Enforcement officers;
- 11) illegal use of funds from the purpose account;
- 12) repeating a disciplinary infraction before a previously imposed disciplinary measure has been stricken off from the record;
- 13) frequent violation of the Ethical Code of Public Enforcement officers or the Standards of Professional Conduct of Public Enforcement officers which has led to severe violation of reputation of public enforcement officers;
- 14) offering services contrary to the Ethical Code of Public Enforcement officers;

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- 15) infringement of obligation to keep a business secret;
- 16) disorderly keeping of ledgers and records by incorrectly presenting or failing to present the data that must be presented by law or other regulation;
- 17) failure to carry out the enforcement proceedings or security proceedings in the language that is in official use in the court;
- 18) handling assets and funds in enforcement proceedings or security proceedings contrary to the law or the authorization of the parties;
- 19) unjustifiable refusal to temporarily undertake the activities of the public enforcement officer whose activity has terminated or, based on the writ of the president of the Chamber, temporarily replace the public enforcement officer who has been prevented from performing the activity
- 20) public disclosure of information about the personal life, family circumstances and finances of the parties and participants in the proceedings, obtained by the public enforcement officer in the course of his practice;
- 21) Failure to pay membership fee to the Chamber for three consecutive months, or six non-consecutive months over the course of one calendar year;
- 22) unjustified denial of professional training;
- 23) practicing the activities of a public enforcement officer despite the imposed disciplinary measure of temporary ban on activities of a public enforcement officer;
- 24) failure to keep records on enforcement and security procedures and financial operations in accordance with the act of the Minister referred to in Article 503, paragraph 6 of the Law.

Disciplinary Measures

The Law on Enforcement and Security (LES) prescribes disciplinary measures and distinguishes between measures prescribed for minor disciplinary violations and those prescribed for severe disciplinary violations. Disciplinary measures are prescribed by Article 528 of the LES.

For minor disciplinary violations, the following measures are imposed:

- 1) Warning;
- 2) A fine of up to one average monthly salary of a judge of the basic court, paid in the month preceding the month in which the decision on the fine is made.

For severe disciplinary violations, the following measures are imposed:

- 1) Public reprimand;
- 2) A fine ranging from one to 12 average monthly salaries of a judge of the basic court, paid in the month preceding the month in which the decision on the fine is made;
- 3) Temporary suspension of the public enforcement officer's activities;
- 4) Permanent suspension of the public enforcement officer's activities.

Temporary suspension of the public enforcement officer's activities can last from three months to one year. The disciplinary committee may remove the public enforcement officer from duty during the disciplinary proceedings.

III.2. Supervision over enforcement

The system of supervision over the work of public enforcement officers in the Republic of Serbia is regulated by the Law on Enforcement and Security and bylaws. According to the valid regulations, the work of public enforcement officers is supervised by the Ministry of Justice and the Chamber of Public Enforcement officers. In addition to the Ministry of Justice and the Chamber of Public Enforcement officers, there is a special type of control over the work of public enforcement officers performed by the court.

Judicial control

Judicial control over the work of public enforcement officers derives from the court's obligation to react to violation of imperative regulations. Also, the Law on Enforcement and Security prescribes the possibility of filing legal remedies to certain decisions made by public enforcement officers, as well as the possibility of submitting requests for elimination of irregularities, which opens the possibility of activating the judicial mechanism as a type of control.

Supervision by the Ministry of Justice

Considering that the Minister of Justice appoints public enforcement officers, and that the Competition Commission (whose members are appointed by the Minister) verifies whether the person meets the requirements for performing the duties of a public enforcement officer, based on whose proposal the Minister selects one of the proposed candidates and appoints them as a public enforcement officer, it can be said that this is the first moment of control over the public enforcement officer. Additionally, before taking the oath, which is one of the prerequisites for commencing activities, the newly appointed public enforcement officer must provide the Ministry of Justice with evidence that they have concluded contracts for insurance as prescribed by law and that they have obtained a seal and stamp. Besides, before commencing activities, the public enforcement officer is obliged to provide space and equipment for work (an office) and pay membership fees to the Chamber. The Chamber verifies the fulfillment of conditions regarding space and equipment and compiles a record of it, which is then submitted to the Ministry of Justice. These are some of the most important steps taken before commencing activities, so that some form of initial control is exercised at that moment.

Once they commence their activities, public enforcement officers have a duty to provide daily reports and an annual report to the Ministry of Justice. Daily reports are automatically generated and delivered through an application, and there is a developed alarm system that activates in case irregularities are detected in the work through automatic control of data from the reports. This allows for monitoring of actions that can be tracked through the alarm system.

The Ministry of Justice supervises the work of public enforcement officers in accordance with Article 523 of the Law on Enforcement and Security and in accordance with a bylaw adopted by the Minister - the Rulebook on Supervision Over the Work of Public Enforcement Officers ("Official Gazette of RS", No. 32 of March 30, 2016, No. 152 of December 18, 2020). The law stipulates that the Ministry of

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Justice carries out supervision on its own initiative, upon the proposal of the president of the court for whose area the public enforcement officer is appointed, or upon complaint from another public enforcement officer, party, or participant in the proceedings. The Ministry of Justice may conduct on site and office supervision. Within the scope of supervision, the Ministry of Justice is authorized to inspect all documentation (lists of cases, special purpose accounts, etc.), request a report from the public enforcement officer, request the public enforcement officer to respond to a complaint, inspect records maintained by the public enforcement officer, and obtain all necessary information to decide whether disciplinary proceedings should be initiated against the public enforcement officer. It is important to note that the Ministry of Justice, within its supervision, takes into account disciplinary violations. It cannot review the merits of decisions made by public enforcement officers because that is exclusively within the jurisdiction of the court. Public enforcement officers are required to provide all data requested by the supervisory body, as well as all notifications and responses, and to allow the authorized person for supervision to access the premises and carry out supervision of the work of the public enforcement officer without hindrance. If a public enforcement officer does not provide the requested documentation and responses to the supervisory body or obstructs the authorized person during supervision, disciplinary proceedings may be initiated against them.

Supervision by the Chamber of Public Enforcement Officers

The Chamber of Public Enforcement Officers also supervises the work of public enforcement officers. Although it does not participate in the actual appointment of public enforcement officers, as already noted, the Chamber verifies whether the appointed public enforcement officer has met the requirements regarding the provision of office space and necessary equipment for work, and it compiles a record of this which is then submitted to the Ministry of Justice. Therefore, there is a kind of preliminary control by the Chamber of Public Enforcement Officers. The Chamber of Public Enforcement Officers issues a decision to the public enforcement officer regarding the commencement of activities within 15 days of taking the oath.

Unlike the Ministry of Justice, which is not obligated to conduct regular supervision, the Chamber of Public Enforcement Officers is obliged to conduct regular supervision of the work of all public enforcement officers once every two years. This supervision is typically field-based. The Chamber of Public Enforcement Officers prepares records of the conducted supervision and submits them to the Ministry of Justice. Additionally, the Chamber of Public Enforcement Officers may conduct supervision of the work of public enforcement officers based on complaints from parties or participants in legal proceedings. The supervision conducted by the Chamber of Public Enforcement Officers over the work of public enforcement officers is regulated by Article 524 of the Law on Enforcement and Security. The Chamber also has the authority to inspect all necessary documentation and records during supervision. Both the Chamber of Public Enforcement Officers and the Ministry of Justice, in their supervisory roles, pay special attention to the application of the Code of Professional Conduct. In addition to the Law on Enforcement and Security, the manner of supervision by the Chamber is also regulated by a subordinate regulation issued by the Chamber itself - the Rulebook on Supervision of the Work of Public Enforcement Officers and their Deputies ("Official Gazette of RS", No. 63 of August 17, 2018).

III.3 Access to the premises

The public enforcement officer shall take enforcement actions, in particular the search of the apartment and business or other premises of the enforcement debtor, or the clothes he is wearing, with due care to the enforcement debtor's person and the members of his household. The enforcement actions (inventory and appraisal of movable assets, etc.) in the apartment of the enforcement debtor, in the absence of the enforcement debtor, his legal representative, proxy or an adult member of the household, shall be taken in the presence of two adults as witnesses. The public enforcement officer may open a locked room only in the presence of two adults as witnesses, if the enforcement debtor is absent or declines to open it. Persons attending the enforcement actions in official capacity may not be witnesses thereof. The public enforcement officer may decide to have the enforcement action conducted tonally or optically recorded. The audio or video recording is an integral part of the record of the action taken.

III.4 Obstructing the judicial officer from carrying out enforcement

Unsatisfied parties (mostly the debtors) often resist or obstruct the work of the public enforcement officer during the enforcement proceedings. It is common in practice for debtors to refuse the public enforcement officer access to premises for the purpose of conducting an inventory. Debtors often receive assistance in resisting from other individuals who are not parties to the proceedings (family members, friends, neighbours, etc.). In such situations, the public enforcement officer cannot access the premises where the enforcement action needs to be carried out. For this reason, the Law on Enforcement and Security of the Republic of Serbia provides for the possibility for the public enforcement officer to request police assistance (Article 143). In this case, the public enforcement officer shall submit a written request for police assistance to the competent police organizational unit at least five working days before the enforcement action. The request for this type of assistance must provide reasons for requesting police assistance. Along with the request, the public enforcement officer submits the enforcement order. The Law on Enforcement and Security also provides for the possibility of requesting police assistance verbally, with the subsequent submission of a written request within 48 hours, and under emergency circumstances, which imply a situation where police assistance is needed to prevent danger to life, health, or substantial property.

Upon request for assistance, the police must immediately conduct all security checks and take necessary measures to ensure safe enforcement (temporarily confiscating legal weapons, etc.). Before commencing the enforcement, the police will warn the debtor and other present individuals about the possibility of using coercive measures in case of obstruction or prevention of enforcement.

There are situations where a disturbance of public order and peace or substantial violence can be reasonably expected. In such situations, the head of the relevant police unit may request in writing that the public enforcement officer refrain from conducting enforcement in order to take necessary measures and actions for safe enforcement.

Just as the debtor can obstruct and prevent the enforcement actively, they can also prevent enforcement by their absence in situations where their presence is necessary. In these situations, Article 145 of the Law on Enforcement and Security prescribes the possibility of issuing a warrant for the debtor's arrest. The court that issued the enforcement order may, upon the request of the public enforcement officer, order the issuance of a warrant for the debtor's arrest in such cases. The court shall deliver the order to the police authorities.

III.5 Time of enforcement

The Law on Enforcement and Security specifies the time during which the public enforcement officer conducts enforcement proceedings (Article 141 of the Law). According to the provision of the mentioned article, enforcement is carried out every working day from 7 a.m. to 10 p.m. The enforcement may be implemented outside the specified period if the enforcement debtor is avoiding the fulfilment of the obligation or if it is required by particularly justified reasons. Regarding the enforcement of monetary assets of the debtor, the enforcement authority conducts enforcement on the debtor's financial assets every working day from 9 a.m. to 6:30 p.m.

III.6 Mediation

General duty of mediation between the parties

Article 137 of the Law on Enforcement and Security imposes on public enforcement officer a duty to mediate between the parties of enforcement procedure so that the case could be resolved amicably. The result of this mediation should be some kind of agreement between enforcement creditor and enforcement debtor.

Special procedure for voluntary collection of money claim before initiation of enforcement procedure

Based on the provisions of Article 138a of the Law on Enforcement and Security, enforcement creditor may initiate procedure for voluntary collection of money claim before filing motion to enforce and starting enforcement procedure. Enforcement creditor must submit enforcement title or authentic document to the public enforcement officer as a proof of existence of his/her claim and its maturity. Enforcement creditor is entitled to choose public enforcement officer that shall be in charge of conducting these proceedings. The only exception exists when the claim concerns utilities and similar services in which case enforcement creditor has to request from the Chamber to designate competent enforcement officer following the principle of equal distribution of these cases.

Enforcement creditor must pay small advance payment to the public enforcement officer within eight days starting from day on which he/she has received payment order. If enforcement creditor doesn't pay the advance, it shall be considered that he/she has withdrawn the motion for conducting these proceedings.

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Public enforcement officer shall invite enforcement debtor to settle the money claim voluntarily. He/she shall explain to enforcement debtor the advantages of voluntary payment and of avoiding enforcement procedure and paying the costs. For these purposes public enforcement officer may organize meetings or other forms of communications with the parties.

The procedure for voluntary collection of money claim shall last maximum 60 days and it cannot be extended. It may be ended unsuccessfully or by concluding agreement between enforcement creditor and enforcement debtor or by voluntary payment of full amount or one part of the money claim. Only when the proceedings have ended by reaching an agreement between the parties and in the case of voluntary payment public enforcement officer shall be entitled to success fee.

Conducting the proceedings for voluntary payment of money claim is not precondition for filing motion to enforce. It is up to enforcement creditor to decide whether he/she shall enter these proceedings or not. Enforcement debtor also has the choice whether to participate or not.

In addition to this, it is important to note that the Law on Enforcement and Security, in Article 496 titled "Incompatibility," lists the tasks and functions that are incompatible with the duties of a public enforcement officer, specifically emphasizing that incompatibilities are not subject to the activity of mediation in peaceful dispute resolution. A public enforcement officer may also be a registered mediator.

PART IV ENFORCEMENT PROCEDURES

IV.1 Initiation and end of the enforcement procedure

The structure of enforcement procedure – There are two stages of enforcement procedure: deciding upon motion to enforce and conducting enforcement. Only if the first stage results in issuing enforcement order the procedure shall enter second stage. Otherwise, if a motion to enforce is finally dismissed or rejected the enforcement procedure shall be ended without collection of claim belonging to enforcement creditor.

Initiation of enforcement procedure – In most of enforcement cases enforcement procedure shall be initiated upon the request of enforcement creditor. The enforcement creditor must file the motion to enforce together with enforcement title or authentic document and to submit other documents that are necessary for issuing enforcement order. There are some enforcement procedures that shall be initiated ex officio without a motion to enforce filed by enforcement creditor, such as enforcement for collection of fines and court fees. Starting enforcement procedure ex officio represents exception, initiating enforcement procedure upon request of enforcement creditor is a rule.

The competence to decide upon motion - The competence to decide upon motion to enforce is generally vested within enforcement court. Only in two situations public enforcement officer shall be competent to decide upon the motion: enforcement of money claims for utilities and similar services and enforcement of money claims against the state, municipalities and budget users.

Decision upon motion to enforce – Motion to enforce needs to fulfil all procedural and material (substantive) requirements for issuing enforcement order. When motion to enforce has some procedural deficiencies it shall be dismissed. If the motion to enforce is ill-founded it shall be rejected. Only when all procedural and substantive conditions have been met the court or public enforcement officer shall issue enforcement order. That is the precondition for entering the second phase of enforcement procedure which is called conducting (implementation) of enforcement.

Enforcement order and its structure – Enforcement order based on enforcement title must contain information about enforcement creditor, enforcement debtor, enforcement title, the claim of enforcement creditor, means and objects of enforcement and instruction about the right to challenge enforcement order by filing legal remedy. The enforcement order shall not contain means and objects of enforcement if enforcement creditor hasn't specified it in motion to enforce. In that case it shall be up to public enforcement officer to identify means and objects that shall be the most suitable for collection of claim belonging to enforcement creditor. Enforcement order must contain information about the public enforcement officer that shall be competent to conduct enforcement (Article 66 of the Law on Enforcement and Security).

The structure of enforcement order based on authentic document has two parts: first part contains payment order for enforcement debtor and the second part contains means and objects of

enforcement if enforcement debtor doesn't comply with payment order. The enforcement order shall not contain means and objects of enforcement if enforcement creditor hasn't specified it in motion to enforce. In that case it shall be up to public enforcement officer to identify means and objects that shall be the most suitable for collection of claim belonging to enforcement creditor. Enforcement order based on authentic document must also contain information about the parties, about the claim, about authentic document and about public enforcement officer that shall be competent to conduct enforcement and instruction about the right to challenge enforcement order by filing legal remedy (Article 67 of the Law on Enforcement and Security).

Consequences of issuing enforcement order – Upon issuing enforcement order enforcement debtor is prohibited to dispose of his property that has been designated as object of enforcement. If enforcement order doesn't contain means and objects of enforcement prohibition shall start on the day on which public enforcement officer has issued a conclusion determining means and objects of enforcement. The prohibition related to disposition of enforcement debtor's property shall be entered in the public registries (Article 19 of the Law on Enforcement and Security).

Service of enforcement order to the parties, participants and organs involved in enforcement procedure – The competence for serving enforcement order depends on the competence for conducting enforcement. If public enforcement officer is in charge for conducting enforcement than they will serve enforcement order to the parties, participants and organs involved in enforcement procedure. When enforcement is to be carried out by enforcement court than the court shall serve enforcement order to all the subjects mentioned above.

Conducting enforcement – When enforcement order has been issued the implementation of enforcement shall begin. Public enforcement officers shall carry out enforcement ex officio when they receive enforcement order together with other documents that are necessary for implementation of enforcement. The procedure for conducting enforcement is not the same for enforcement titles and authentic documents.

When enforcement order has been issued based on enforcement title, the finality of enforcement order is not necessary precondition for starting implementation of enforcement. Enforcement debtor may lodge an appeal against enforcement order based on enforcement title but lodging that appeal doesn't prevent enforcement from being carried out. Situation is different if enforcement order has been issued based on authentic document. In that case enforcement debtor has the right to lodge an objection and there can be no implementation of enforcement before enforcement order has become final.

However, in both situations immovable and movable assets cannot be sold before finality of enforcement order.

The course of enforcement procedure – According to the urgency principle enforcement is to be carried out ex officio without unnecessary delays and within short deadlines determined by Law on Enforcement and Security. However, it may be postponed upon request of enforcement creditor, upon request of enforcement debtor, upon request of the third party and upon agreement of both parties to the proceedings.

Termination of enforcement procedure - There are several ways of termination of enforcement procedure. From the point of enforcement creditor, the most suitable way is collection of his/her claim in full. However, in some situations enforcement procedure may be terminated although the claim of enforcement creditor hasn't been satisfied.

In accordance with Article 128 of the Law on Enforcement and Security, enforcement procedure shall be terminated by issuing conclusion if the claim of enforcement creditor has been satisfied or by discontinuance of proceedings without satisfaction of enforcement creditor's claim. Enforcement procedure shall also be terminated if the motion to enforce has been finally dismissed or rejected (Article 128 of the Law on Enforcement and Security).

Enforcement procedure shall be discontinued in the following situations: 1) enforcement title has been finally set aside, quashed or reversed; 2) certificate on enforceability has been finally quashed; 3) if a party natural person dies and the claim cannot be transferred to his/her successors; 4) if a party legal entity ceases to exist and there is no successor; 5) if the claim has ceased to exist; 6) if carrying out the enforcement has become impossible (the enforcement object doesn't exist anymore or for some other reasons); 7) for other reasons specified by law. Decision on discontinuance shall be rendered by public enforcement officer and it may be appealed. Discontinuance of enforcement doesn't have any impact on the rights acquired by the third parties (Article 129 of the Law on Enforcement and Security).

Conclusion of enforcement procedure means that proceedings has been terminated because the claim of enforcement creditor has been satisfied in full. In that case public enforcement officer shall issue conclusion establishing that final enforcement action has been performed. Enforcement creditor may request the procedure to be continued if he/she argues that the claim hasn't been satisfied in full. Public enforcement officer shall decide upon the motion and his/her decision may be objected (Article 130 of the Law on Enforcement and Security).

IV.2 Enforcement against movable assets to settle pecuniary claims

Territorial Jurisdiction

The territorial jurisdiction for deciding on the motion for enforcement for settlement of monetary claim against movable assets is vested in the court whose territory the movable assets are located. If the movable assets is located in the territorial jurisdiction of different courts, then the court to which the proposal for enforcement was first submitted has jurisdiction. Regarding movable property, there are restrictions on enforcement, which are detailed in the section dealing with limitations. The law enumerates items that are exempt from enforcement.

Enforcement Actions

Enforcement of monetary claims on movable assets is carried out through inventory and appraisal of the movable assets, sale of assets, and settlement of the enforcement creditor from the sale price.

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(The appraisal of the property can be separated from the inventory if, due to the special value of the property, it is not possible to appraise the property simultaneously with the inventory).

Inventory and Appraisal of Movable Property

The enforcement order is handed over to the debtor immediately before the inventory begins, and they are called upon to fulfil the claim with interest and procedure costs. If the enforcement order could not be delivered to the debtor before the inventory, it is delivered by its posting at the inventory site. The absence of parties does not hinder the assets from being inventoried, and a party not present during the inventory is informed that the inventory has been conducted. The creditor is informed of the time and place of the inventory and warned that the assets will be inventoried even without their presence. Although not explicitly stated, it can be indirectly inferred that the debtor is not informed in advance of the time and place of the inventory, considering that the Law on Enforcement and Security prescribes that the enforcement order be delivered to the debtor immediately before the inventory begins. The reason justifying this legislative stance is that if the debtor were informed in advance of the time and place of the inventory, they could remove valuable items from the premises where the inventory is scheduled to take place. This prevents the possibility of the debtor hiding movable property before the inventory. Through the inventory process, the debtor does not lose possession of the property; rather, the items are marked and inventoried, which also serves as a form of pressure on the debtor to settle the claim within the specified period.

Subject of Inventory

Items located in the possession of the debtor and items owned by the debtor but in the possession of the creditor or another party are inventoried. Items on which a third party has raised an objection claiming a right that prevents enforcement are also inventoried. When it comes to individuals, the inventory is typically conducted at the debtor's residence, and all items found in the debtor's possession are inventoried without verifying whether they truly belong to the debtor. When the debtor is a legal entity, the inventory is usually conducted at the registered office or another registered location where the debtor conducts business. If the debtor has registered branches, the inventory can also be conducted at the branch addresses. The Law on Enforcement and Security only specifies that items owned by the debtor and in the debtor's possession are inventoried but does not prescribe that the inventory will be conducted at the debtor's residence or registered office. In practice, it is generally assumed that the inventory will take place at the debtor's residence/registered office because it is presumed that the movable property owned by the debtor will be located at the address of their residence/registered office.

Scope of Inventory

The inventory includes as many items as necessary to settle the enforcement creditor and cover the enforcement costs, regardless of whether the enforcement order specifies the items subject to enforcement. Primarily, items that can be sold most easily are inventoried, along with items on which third parties have not objected to any rights preventing enforcement, and items that are not susceptible to rapid deterioration or significant depreciation in value. Regarding the rule that items that can be sold most easily should be inventoried, information on which items are easiest to sell can

be obtained through the eAuctions portal, which, among other benefits, has led to the availability of reports and statistics on which items are most easily sold.

Consequences of inventory

The most significant consequence of the inventory is the prohibition on disposing of movable assets. These items are not permitted any legal or factual disposal. Information about the prohibition on disposal and the criminal-law consequences of violation will be stipulated in the enforcement order to inform the parties about the consequences.

A record is compiled about the inventory. Concerning the enforcement creditor, the inventory has a different effect. The inventory record serves as the basis for the enforcement creditor to register a pledge on the inventoried items. This allows the creditor to obtain security, and by registering the pledge, the creditor acquires a priority status regarding the order of settlement from the proceeds of the sale. If an individual holds a pledge on a specifically identified item, that individual has priority in payment compared to other parties without a registered pledge.

Possibility of Inventory Modification: The enforcement creditor can propose changes to the inventory within eight days of its completion, and the public enforcement officer decides on this proposal within six days of receiving it. Only the final inventory conclusion will serve as the document upon which the enforcement creditor can register their pledge on movable assets.

The inventory record and the conclusion of the final inventory are delivered to the enforcement creditor and prominently displayed in the area where the inventory was conducted (the space where the inventoried item was located at the time of the inventory). The inventoried items left in the custody of the enforcement debtor are visibly marked as inventoried, and fines are imposed on those who remove the copy of the inventory record, the conclusion of the final inventory, or the indication that the items have been inventoried.

Pledge

In the Republic of Serbia, in order to establish a pledge on movable or immovable assets, it must be registered in the appropriate registry. The registry of pledges for movable assets in the Republic of Serbia is maintained by the Business Registers Agency. The creditor will provide the Agency with the original or certified copy of the inventory record and the conclusion of the final inventory for the purpose of registering the pledge in the registry. The enforcement creditor submits to the Business Registers Agency a proposal for enforcement and the enforcement order, as well as the data specified by regulations on the registration of pledges on movable assets in the Pledge Registry.

The enforcement creditor acquires a pledge right on the inventoried item at the moment of registration of the pledge in the Pledge Registry, thereby gaining the right to settle from the movable assets. When a pledge right on the same movable property is registered in favor of multiple enforcement creditors, the order of settlement rights is determined according to the time of receipt (day, hour, and minute) of the request for registration in the Pledge Registry. If the time of receipt of

the request for registration is the same for multiple enforcement creditors, the order of settlement rights is determined according to the date when the enforcement proposals were submitted, and if they were submitted on the same day, all enforcement creditors have the same order of settlement.

Storage of inventoried items

The inventoried items are left in custody of the enforcement debtor, or the enforcement creditor, or another person who already has possession of the items. Cash, securities, and valuables are kept in deposit with the enforcement officer or a person performing commission sales. Other high-value items suitable for safekeeping are also handed over for custody to the deposit of the enforcement officer or a person performing commission sales. The enforcement officer may, upon the proposal of the enforcement creditor (which is possible until the decision on the allocation of the items) take the items from the enforcement debtor and entrust them for safekeeping to the enforcement creditor or another person designated by the enforcement creditor. In this case, the costs of storing the items are initially borne by the enforcement creditor or the person he designated, and the enforcement debtor reimburses them for these costs, while the risk of loss or damage to the items is borne by the enforcement creditor, except if it is a result of force majeure or an accident. If the loss or damage to the items cannot be attributed to force majeure or an accident, it is considered that the enforcement creditor has been satisfied up to the value of the lost item or the value of the damaged item.

Unsuccessful inventory

The inventory of items may be unsuccessful. This will happen in a situation where the enforcement officer does not find movable items that can be subject to enforcement. The enforcement officer informs the enforcement creditor of the unsuccessful inventory (if the enforcement creditor himself did not attend the inventory). If an inventory is unsuccessful, the creditor may request a repeat inventory within 8 days from the date of receiving the notification of the unsuccessful inventory or, if present during the inventory, from the date the inventory was conducted. Within the same period, the enforcement creditor may, instead of requesting a repeat inventory, specify another means and subject of enforcement. If the enforcement creditor does not propose a new inventory or specify another means and subject of enforcement within the specified period, the procedure is terminated. The enforcement procedure will also be terminated if, during the repeated inventory, no movable items are found on which enforcement can be carried out.

Appraisal of movable items

As a rule, items are appraised when inventoried, and the enforcement officer assesses them according to the market price at the place of evaluation on the date of appraisal. In addition, the enforcement officer may appraise the item based on written information from relevant organizations, institutions, or legal and physical entities of the appropriate profession. The enforcement creditor and the enforcement debtor may also agree on the value of the item.

A record of the inventory and appraisal is drawn up after the inventory.

Legal effect of inventory and appraisal

After the inventory and appraisal, a separate enforcement procedure cannot be initiated for the settlement of another claim on the same item. If a new enforcement decision is made for the settlement of another claim on the inventoried and appraised items, the item is not inventoried or appraised again. Instead, the data from the new enforcement decision are only noted in the continuation of the inventory and appraisal record. This note serves as the basis for the new enforcement creditor to register a pledge on the inventoried items. They join the ongoing enforcement procedure in its current state and cannot take procedural actions that could have been taken before joining. Joining the enforcement procedure is allowed until the conclusion of the decision on the allocation of the item to the buyer.

Sale of movable items

Items can be sold in several ways:

1. By oral public bidding
2. By direct agreement

The method of sale is determined by the enforcement officer through a decision on the sale of movable items. Sale by public bidding is determined if the item has a higher value or is expected to be sold at a price higher than the assessed value. Regardless of the method of sale determined by the enforcement officer, the parties may also agree to sell the item by direct agreement.

It is important to note that the enforcement officer may decide on the sale of movable items only when the enforcement decision becomes final. The decision on the sale is published on the electronic bulletin board of the Chamber. The decision on the sale must be published at least 15 days before the scheduled first public bidding and no later than 30 days from the scheduled first public bidding. An exception to this rule exists if the parties have agreed or if the items are susceptible to rapid deterioration or if there is a risk of significant depreciation of the item's value. The decision on the sale of movable items determines whether the item will be sold by public bidding or by direct agreement, the terms of sale, and from when and how the item can be sold by direct agreement by agreement of the parties. The decision specifies the conditions of sale as well as all essential data related to the sale, description of the item, assessed value and assessment time, time and place of bidding, starting price of the item, deadline for payment of the price, amount of security, deadline for depositing the security and to whom the security is deposited. The deadline for payment of the price cannot be longer than 15 days from the rendering of the conclusion on awarding the movable asset.

Article 169 of the Enforcement and Security Act stipulates who cannot be a buyer of the item. This article applies to the sale of immovable property and applies to movable asset. The enforcement officer is required to alert those who cannot be buyers. The buyer cannot be the enforcement debtor, the enforcement officer, persons employed in the enforcement officer's office and their relatives (including adopted, foster, and guardians, or guardianship, as well as dependents), persons who have officially participated in the specific enforcement procedure in another way, persons employed in the ministry as administrators of the public bidding portal, nor their relatives.

The decision on the sale is published, as already mentioned, on the Chamber's bulletin board, and if the item is sold through electronic public bidding, then also on the electronic public bidding portal. In addition to this, the parties may publish the decision at their own expense in public media. The decision on the sale is delivered to the parties, pledge creditors, participants in the procedure, the holder of contractual and statutory pre-emptive rights.

Awarding the asset after public bidding

When the public bidding process ends successfully, the enforcement officer shall make a conclusion on the awarding the asset, warning the most favourable bidder that the item will be awarded to the second bidder if the most favourable bidder fails to pay the offered price within the deadline specified in the conclusion on the sale of the asset, or to the third bidder if the second one does not pay the price, and so on until all bidders from the list are exhausted. If no bidder pays the offered price within the deadline, the enforcement officer establishes that the public bidding has failed.

As the provisions applicable to the sale of immovable property at a public bidding are applied to the public bidding of movable assets, this will be discussed in the section describing the procedure for the sale of immovable property for the settlement of monetary claims by the enforcement creditor. A total of two public biddings can be organized. The second public bidding is organized if the first one fails. At the second public bidding, a lower starting price than the one determined at the first public bidding is set. If the second public bidding also fails, the enforcement officer invites the enforcement creditor to choose, within 15 days, settlement by selling the item by direct agreement or transferring ownership rights to the item to the enforcement creditor. If the creditor does not declare within the deadline, the enforcement procedure is terminated.

Sale of items by direct agreement

It has already been noted that the decision on the sale itself can determine whether the item will be sold at a public bidding or by direct agreement, and that the parties themselves can agree to sell the item by direct agreement. However, even in a situation where both public biddings fail, the enforcement creditor may propose that the item be sold by direct agreement. In the case of the sale of movable assets by direct agreement, a written contract is concluded between the buyer and the enforcement officer on behalf and for the account of the enforcement debtor or the person performing commission sales in their own name and for the account of the debtor, and the buyer is obliged to pay a security deposit in the amount of 15% of the assessed value of the item immediately before concluding the sale agreement.

If the item is sold by direct agreement based on the agreement of the parties, the buyer, the deadline for concluding the sale agreement by direct agreement, and the selling price are determined by this agreement (other conditions may be agreed upon). The agreement between the parties is possible within a certain period, namely until the conclusion on the awarding the assets after the first public auction or until the conclusion determining that the second public auction was unsuccessful. The agreement is not allowed during the public auction. The agreement is also not allowed if the asset is

sold at the first public auction until it is determined that the first public auction was unsuccessful in case the bidders do not pay the price within the deadline. After that, the agreement is possible until the second public auction begins.

When the item is sold by direct agreement based on the decision on the sale (when the enforcement officer has determined this method of sale), the contract can be concluded within 30 days from the date of announcement of the decision, and the deadline for payment cannot exceed 15 days from the date of the conclusion on the awarding the asset. If the item is sold by direct agreement at the choice of the enforcement creditor (after the unsuccessful second public sale), the enforcement officer issues a conclusion on the sale by direct agreement, and the same deadlines apply as in the case when the direct agreement was determined by the enforcement officer. The sales contract is concluded with the person who has signed an agreement with the enforcement creditor regarding the price and payment deadline and has informed the enforcement officer about it. If the item is sold by direct agreement, the enforcement creditor is considered settled to the extent of the achieved price, but if the price achieved is lower than 30% of the assessed value, it is considered that the creditor is satisfied in the amount of 30% of the assessed value. This means that the item can be sold for less than 30% of its value, but it will be considered that the creditor is settled in the amount of 30% of the assessed value.

In both cases of direct agreements, the enforcement debtor cannot influence the price or other conditions of the sale. The conclusion on the awarding the movable assets is made immediately after the conclusion of the contract by direct agreement.

If the sale by direct agreement fails (if the contract is not concluded within the deadline or if the price is not paid within the deadline), the enforcement officer determines that the item has not been sold. Then, the enforcement creditor is invited to, within eight days, request settlement by transferring ownership rights to the movable assets or to propose another means and subject of enforcement, and if the deadline is missed, the enforcement procedure is terminated.

The enforcement creditor to whom ownership rights to the movable property have been transferred is considered satisfied in the amount of 50% of the assessed value, reduced by the amount deposited to satisfy other persons entitled to satisfaction. If, even after this reduction, there is an amount remaining greater than the enforcement creditor's claim, the difference is paid to the enforcement debtor within a deadline determined by the enforcement officer, otherwise, the conclusion on settlement by transferring ownership rights to the movable assets is nullified.

Surrendering the movable asset to the buyer

The public enforcement officer issues a conclusion on surrendering the asset immediately after the buyer pays the sale price. This conclusion is delivered to all parties to whom the conclusion on the sale of the movable property is delivered, as well as to competent authorities such as the tax office. The conclusion on the sale of the asset serves as evidence that the buyer has acquired ownership rights to the asset (if their ownership right needs to be registered). The conclusion on surrendering the movable asset can be issued, and the asset surrendered to the buyer, even before payment of the sale price, if

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the enforcement creditor and the persons entitled to priority in settlement from the sale price agree to this at their own risk, within the limit of the amount that would belong to them by settlement. If the buyer to whom the asset has been surrendered does not pay the sale price within the deadline, the enforcement creditor and persons entitled to priority in settlement from the sale price can request the public enforcement officer to forcibly collect the sale price in the same enforcement procedure.

Legal effect of surrendering the asset on pledge rights and leasing rights

The pledge right on the movable asset ceases with the issuance of the conclusion on surrendering the movable asset. Based on this conclusion, the buyer can request the removal of the pledge from the public register. The lease of movable assets ceases except in cases where the lease agreement is concluded in writing, with the signatures of the contracting parties duly authenticated, and if it is concluded before the oldest pledge right or the oldest enforcement order.

Settlement

Based on the situation in the case files and public registers, a conclusion on settlement is made immediately after the conclusion on surrendering. Only claims from enforcement orders that have become final before the conclusion on settlement are considered. Regarding the order of settlement, claims based on statutory maintenance obligations, proven by an enforceable instrument created before the oldest enforcement order and reported before the conclusion on the awarding the movable asset, are settled first. Then, the claims of secured creditors (if any) are settled, followed by the claims of enforcement creditors who have acquired a pledge right. Lastly, the claims of enforcement creditors who have not acquired a pledge right are settled. The next line of creditors is settled only when the previous line of creditors is settled in full. If the sale price is insufficient to satisfy all creditors in the same line of settlement, they are settled according to the order of acquisition of the right to satisfaction, and if they acquired the right to satisfaction simultaneously, they are settled proportionally to the amount of their claims. Enforcement creditors who have acquired a pledge right are settled according to the order determined by the Law on Enforcement and Security (Article 228), while enforcement creditors who have not acquired a pledge right are settled according to the time they filed the enforcement proposal. The costs of the enforcement procedure, costs awarded in the enforceable instrument, and interest awarded in the enforceable instrument have the same order of settlement as the principal claim.

Any surplus of the sale price remaining after settlement is surrendered to the enforcement debtor.

IV.3 Attachment on the bank account of the debtor

Enforcement Against Monetary Funds on the Account of the Enforcement Debtor

This method of enforcement differs in procedure depending on the type of debtor. Enforcement debtors can be divided into two groups:

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I. Enforcement debtors against whom enforcement is conducted by an organization for compulsory collection:

1. Legal entities, entrepreneurs, or individuals conducting business activities.
2. Direct or indirect recipients of budgetary funds of the Republic of Serbia.

II. Enforcement debtors against whom enforcement is not conducted by an organization for compulsory collection:

1. natural persons.

I. Enforcement debtors against whom enforcement is conducted by an organization for compulsory collection:

In this case, enforcement is carried out by an organization for compulsory collection. In the Republic of Serbia, compulsory collection is performed by the National Bank of Serbia. The National Bank of Serbia maintains a register of all accounts held by legal and natural persons, as well as entrepreneurs and individuals conducting business activities. Enforcement is carried out on all dinar and foreign currency funds in the accounts of the enforcement debtor, except for accounts exempted from enforcement by law (those not subject to seizure). The register of accounts of business entities is public and can be searched on the website of the National Bank of Serbia by name, registration number, or tax identification number of the enforcement debtor. The register also indicates which accounts are exempt from seizure. The procedure and manner in which the organization for compulsory collection conducts enforcement are regulated by regulations governing payment transactions.

In addition to the identification details, the enforcement creditor is required to specify the account numbers of the enforcement debtor's dinar account and the account number of the enforcement debtor that is not exempt from enforcement in the motion for enforcement. If the enforcement debtor has multiple accounts (which is often the case with legal entities), the enforcement creditor will generally list all accounts of the enforcement debtor that are not exempt from enforcement.

Special rules for the enforcement of monetary funds in the account of the enforcement debtor when the enforcement debtor is a direct or indirect user of budgetary funds.

If the motion for enforcement designates the Republic of Serbia, an autonomous province, or a unit of local self-government as the enforcement debtor, the enforcement creditor is required to specify, in addition to the enforcement account of the budget, the direct beneficiary of budget funds whose work has resulted in the claim being settled, and the unique number of the public revenues beneficiary belonging to that direct beneficiary of the budget funds. If the motion for enforcement designates an indirect beneficiary of budget funds, for whom, in terms of regulations governing budget execution, forced collection is carried out in the same manner as for direct beneficiary of budget funds, the enforcement creditor is obliged to specify the identification data for the debtor as in the case when the enforcement debtor is a direct beneficiary of budget funds. If the motion for enforcement

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designates an indirect beneficiary of the budget funds, the enforcement creditor is required to specify the account through which the indirect beneficiary of the budget funds conducts transactions, its identification number, and its tax identification number. The enforcement creditor is obliged to inform Ministry of Finance in writing about the intention to submit a motion for enforcement no later than 30 days before submitting the motion for enforcement. Proof of the sent notification to the Ministry of Finance must be provided by the enforcement creditor along with the motion for enforcement under the threat of rejection.

The motion for enforcement is decided upon by the public enforcement officer appointed for the jurisdiction of the court in the procedure in which the enforceable document was issued. The enforcement creditor is required to request from the Chamber to designate a public enforcement officer to whom they will submit the motion for enforcement. When the motion for enforcement is drafted to fully correspond to the enforcement order to be made and is submitted in the required number of copies, the public enforcement officer may issue an abbreviated copy of the decision by affixing a stamp containing the text adopting the proposed decision.

The list of direct and indirect beneficiaries of budget funds can be downloaded from the Chamber of Public Enforcement Officers' website at the following link: <https://eraspodela.izvrsitelji.in.rs/>

In situations where the enforcement debtor is a direct or indirect beneficiary of budget funds, the public enforcement officer decides on the enforcement proposal. In this scenario, the competent public enforcement officer is the one appointed for the jurisdiction of the court where the enforceable instrument originated. However, the enforcement creditor in this situation cannot freely choose the public enforcement officer. Instead, they must request the Chamber to designate a public enforcement officer to whom they will submit the enforcement proposal. The Chamber must respond to the creditor's request within five days of receipt, ensuring that public enforcement officers are designated uniformly according to the alphabetical order of listing in the Directory of Public Enforcement Officers and Deputies of Public Enforcement Officers. Furthermore, only the public enforcement officer within whose jurisdiction the enforcement debtor resides, is domiciled, or has its registered office has jurisdiction over the enforcement proposal. If the Chamber fails to respond to the creditor's request within five days, the enforcement creditor may independently designate the public enforcement officer appointed for the jurisdiction of the court where the enforceable instrument originated.

The public enforcement officer must dismiss the enforcement proposal if the enforcement creditor does not provide a response from the Chamber along with the proposal or fails to provide evidence that the Chamber did not respond to the creditor's request within five days. An objection against the decision to dismiss the enforcement proposal is allowed.

The Chamber regulates in detail the submission and content of the enforcement creditor's request, the content of the Chamber's response, and the method of delivering the response to the enforcement creditor in its Rulebook on the Content and Method of Submitting the Enforcement Creditor's Request to the Chamber of Public Enforcement Officers for Designating the Competent Public Enforcement Officer, the Content of the Chamber's Response, and the Method of Delivering

the Chamber's Response to the Enforcement Creditor ("Official Gazette of the RS", No. 7 of January 23, 2015). Appeals against the decision on enforcement are adjudicated by the competent court for the jurisdiction where the public enforcement officer who issued the enforcement decision is appointed.

Special rules for the settlement of monetary claims stemming from utility and related services

The obligation to submit a request to the Chamber to designate a public enforcement officer also exists in cases where enforcement is requested based on a credible document for the settlement of monetary claims arising from utility services and related activities. In this situation as well, the public enforcement officer decides on the proposal for enforcement and is required to reject the proposal if the enforcement creditor does not provide a response from the Chamber along with the proposal, indicating that he/she has been designated as the public enforcement officer, or if he/she fails to provide evidence that the Chamber has not responded to the enforcement creditor's request within five days.

Enforcement order

The enforcement order instructs the organization for forced collection (National Bank of Serbia) to order banks to freeze the accounts of the enforcement debtor and transfer the funds to the account of the enforcement creditor in the amount of their claim. The enforcement decision is delivered to the enforcement creditor, enforcement debtor, and the organization for forced collection. Public enforcement officers do not have access to information about the balance of accounts. Banks are not obliged to inform the public enforcement officer about the amount of funds held in the account of an individual. The bank will act on the conclusion of the public enforcement officer and transfer the funds, informing the public enforcement officer accordingly. The bank will also notify the public enforcement officer if there are no funds in the accounts, if the funds are insufficient, if the claim has been partially settled, and the exact amount that has been settled.

Collection of Future Periodic Payments

The enforcement order which establishes collection of periodic payments that mature at specified intervals (statutory maintenance, annuity for complete or partial loss of work capacity, annuity for maintenance lost due to the death of the maintenance debtor, etc.) is carried out by instructing the organization for forced collection to order the bank or the competent state authority to disburse to enforcement creditor the future payments upon their maturity. The organization for forced collection keeps a special record of enforcement order specifying the payment of future periodic payments.

A report on the enforcement of decisions specifying the payment of future periodic payments that have been fully executed is submitted to the public enforcement officer by the organization for forced collection after the enforcement of the last instalment of future payments.

II Enforcement debtors for whom enforcement is not carried out by an organization for forced collection

1. natural persons (individuals)

Regarding the implementation of enforcement on the accounts of natural persons, refer to IV.4 and IV.5.

IV.4 Enforcement against savings deposits and current accounts

Enforcement on funds in savings deposits

Enforcement on funds held in the savings deposit of the enforcement debtor is carried out through seizure and transfer of funds from the savings deposit to satisfy the enforcement creditor. The enforcement creditor is obligated to specify in the enforcement proposal the savings deposit number of the enforcement debtor, the name of the bank where it is held, and other relevant data about the savings deposit necessary for the enforcement.

Seizure and Settlement

The enforcement officer primarily delivers the enforcement order to the bank where the savings deposit is held. At that point, funds from the savings deposit are seized. Only when the enforcement officer receives a report from the bank confirming the seizure will the enforcement order be delivered to the enforcement debtor. This sequence of service the enforcement order is designed to prevent the enforcement debtor from withdrawing their funds from the bank to avoid enforcement.

In this regard, banks are required to keep track of the source of funds inflow. The data on the source of funds inflow and the balance on accounts and savings deposits are not available to nor can be requested by enforcement officers. For the enforcement officer, it is only important to know whether there are enough sizeable funds to satisfy the enforcement creditor's claim, and if not, the amount that can be satisfied. The reason why the source of funds inflow is important is precisely because of the limitations prescribed for the monetary receipts of the enforcement debtor and regarding the monetary funds exempt from enforcement. Only those funds that are not subject to limitations and are not exempt can be seized.

Enforcement on funds held in the current account of the enforcement debtor

The enforcement order on the current account of the enforcement debtor, who is a natural person, has the effect of an enforcement order specifying the seizure of monetary claims and the transfer of monetary claims for collection. The rules prescribed for enforcement on savings deposits are applied to the enforcement on the current account of the enforcement debtor. The enforcement creditor will specify the account number and the bank name.

In the case of enforcement on the current account, the rule that applies to the accounts of legal entities when the enforcement is conducted through an organization for forced collection, namely that the funds are transferred directly to the account of the enforcement creditor, does not apply. In the implementation of enforcement on the current account of the enforcement debtor, funds from the current account are transferred to the designated account of the enforcement officer. The reason for this is that in these situations, there may be a violation of the limitations discussed earlier. If a violation of limitations occurs, the debtor may, within eight days from the date of the transfer, inform the enforcement officer that there has been a breach during the transfer of funds and provide evidence thereof. In this situation, if the enforcement officer determines that the transfer of funds has been carried out contrary to the limitations, they will immediately return the excess transferred funds to the current account of the enforcement debtor, or to the account designated by the enforcement debtor, specifying that these are funds that cannot be subject to enforcement.

IV.5 Enforcement on immovable property

For the deciding on the proposal for enforcement to settle a monetary claim on immovable property, the court in whose territory the immovable property is located has the exclusive territorial jurisdiction to decide on the motion for enforcement. If the immovable property is located in the territory of different courts, the court that was first to receive the motion for enforcement has the territorial jurisdiction, and if multiple immovable properties are located in the territory of different courts – the court in whose territory is located the immovable property which is listed first in the motion for enforcement.

Enforcement Actions

Enforcement of a monetary claim on immovable property is carried out by registering the enforcement order in the immovable property cadastre, assessing the value of the immovable property, selling the immovable property, and satisfaction of the enforcement creditor from the sale proceeds.

During the enforcement on immovable property, the enforcement officer pays special attention to the principle of proportionality. This means that consideration is given to the amount of the claim in relation to the value of the immovable property. In cases where there is an apparent disproportion between the value of the immovable property stated by the enforcement creditor in the proposal and the amount of the claim, and if the enforcement debtor possesses other assets from which the claim can be satisfied, the enforcement officer may decide to enforce on other assets.

The enforcement creditor is required to provide, along with the enforcement proposal, an extract from the immovable property cadastre proving that the debtor is registered as the owner of the immovable property. It sometimes happens that the debtor is not registered as the owner of the immovable property in the public register but is, in fact, the owner. This occurs in situations where the enforcement debtor has purchased the immovable property but has not applied for registration of ownership rights in the cadastre, or when they have inherited the immovable property but have not applied for a change in ownership in the immovable property cadastre. Although such cases were

common in the past, they are becoming less frequent because there is an obligation for public notaries and courts to submit documents regarding immovable property transactions (contracts affecting immovable property, inheritance decisions, etc.) to the cadastre and tax authorities. In a situation where the debtor is not registered in the cadastre as the owner, the enforcement creditor is obliged to provide the enforcement officer with evidence suitable for registering property rights in favor of the enforcement debtor. In this case, in addition to registering the annotation, the court or the enforcement officer orders the immovable property cadastre to register property rights in favor of the debtor.

When there is a mortgage on immovable property, and if the owner changes after the establishment of the mortgage, the enforcement creditor designates the new owner as the enforcement debtor in the enforcement proposal.

Enforcement order on co-owned immovable property

In the case where the subject of enforcement is a co-ownership share in immovable property, enforcement is conducted on the co-ownership share. However, if all co-owners agree, it can be determined that the entire immovable property is sold (to one of the co-owners or to another party), and the other co-owners are satisfied from the sale proceeds in proportion to their share.

Entry of Annotation - Legal Effect

The enforcement officer immediately submits the enforcement decision to the authority responsible for maintaining the immovable property cadastre for the entry of the enforcement annotation. By entering the annotation, the creditor acquires the right to satisfy on the property even if the owner changes thereafter. Additionally, an enforcement creditor who did not acquire a pledge right before the entry of the annotation gains the right to satisfy before anyone who subsequently establishes a pledge right on the property or a right to satisfaction on the property. Essentially, this means that if there are no encumbrances registered on the property (such as a pledge or an enforcement annotation) at the time when the enforcement creditor submits the proposal for enforcement and at the time of entry of the enforcement order into the immovable property cadastre, anyone who subsequently registers an encumbrance on that property (acquires a pledge right or enters an annotation) cannot have priority over the creditor who first registered their right. This rule is essential for legal certainty.

From the moment of entry of the enforcement annotation, it is not allowed to register a change in ownership rights on the property or any other immovable property right based on the owner's disposal. If the ownership of the property changes during the procedure (for example, if the property owner dies and the property is inherited), the new owner is obligated to endure the settlement. In this case, the enforcement officer concludes that the proceedings continue against the new owner.

Accession to Enforcement Procedure

After the entry of the annotation, a separate enforcement procedure cannot be initiated for the satisfaction of another claim on the property where the annotation is registered. In this case, the

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enforcement creditor enters into the already initiated procedure, and the right to satisfaction is acquired by the entry of the annotation of the decision by which they joined the procedure. Accession is possible until the adoption of the conclusion to award the property to the buyer. The enforcement creditor joins the procedure in the state in which it is found.

Pledge Rights

Pledge creditors are satisfied in the enforcement procedure even if they have not submitted a proposal for enforcement or reported their claim in the enforcement procedure. The right of pledge ceases upon adopting of a conclusion on surrendering of the immovable property to the buyer, even if the pledge creditor is not fully satisfied. (The buyer of the property and the pledge creditor may, before the deadline for payment of the sale price, agree in writing to retain the pledge right on the property even after its surrendering to the buyer, with the buyer assuming the debt of the enforcement debtor to the pledge creditor up to the amount for which the pledge creditor would be satisfied from the sale price. The sale price is reduced by the amount of the assumed debt. This agreement must be approved by the enforcement officer.)

Easements and Immovable property Encumbrances

Real easements on immovable property are not extinguished by the sale of the property. Personal easements and immovable property encumbrances registered in the cadastre registry before the oldest pledge right or the oldest enforcement order are not extinguished by the sale of the property either. Other personal easements and immovable property encumbrances are extinguished upon the adoption of the conclusion on the sale of the immovable property (holders of these rights are entitled to compensation after the extinguishment of the rights).

Lease of Immovable property

The lease on the property does not terminate upon its sale if the lease agreement is registered in the immovable property cadastre before the oldest pledge right or the oldest enforcement order, or when the property is not registered in the immovable property cadastre if the lease agreement is concluded in writing with certified signatures, prior to the issuance of the oldest enforcement order. The sale of the property does not terminate the lease of an indefinite-term apartment acquired under the law governing housing. The buyer assumes the rights and obligations of the lessor.

Inspection of Immovable Property

The conclusion of the sale specifies the time during which individuals interested in purchasing may inspect the property. In the event that the debtor is absent or prevents access to the property, the public enforcement officer will unlock the premises with two present witnesses or engage police assistance.

Property Appraisal

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The value of the immovable property is determined based on the market price on the day of the appraisal. The public enforcement officer may also opt to assess the property using written notices of value obtained from relevant organizations, institutions, or legal and physical entities in the corresponding field. Additionally, the public enforcement officer may accept an appraisal of the property proposed by the enforcement creditor if it is not older than six months and originates from suitable organizations, institutions, or individuals in the relevant field. When appraising the value of the immovable property, consideration is given to any reduction in value due to certain rights remaining on the property after its sale.

The value of the immovable property is established through a conclusion.

Any party entitled to satisfaction from the immovable property, ranking before the enforcement creditor with the oldest annotation of the enforcement decision, may propose the suspension of enforcement proceedings if the appraised value of the property does not cover their claim. The proposal for suspending enforcement proceedings must be submitted within eight days from the date of delivery of the conclusion on the sale of the property. This situation may arise, for instance, if the claim of the mortgage creditor exceeds the appraised value of the property.

Who cannot be a buyer of immovable property

The same rule applies here as it does for movable property. The buyer of immovable property can never be the enforcement debtor. In addition, the buyer cannot be the public enforcement officer or any other person employed by the public enforcement officer, nor their blood relative up to the fourth degree of consanguinity, spouse, unmarried partner, relative by marriage up to the second degree, guardian, ward, adoptive parent, adopted child, foster parent, or foster child.

The buyer of immovable property cannot be any other person officially involved in the specific enforcement procedure.

The buyer of immovable property cannot be a person employed in the ministry as an administrator of the electronic public auction portal, nor can they be their blood relative up to the fourth degree of consanguinity, spouse, unmarried partner, relative by marriage up to the second degree, guardian, ward, adoptive parent, adopted child, foster parent, or foster child.

In the conclusion of the sale of immovable property, the public enforcement officer is obliged to warn of the mentioned prohibition.

Pre-Emptive Right

There are holders of statutory preemption rights and contractual preemption rights registered in the cadastre. Holders of statutory preemption rights have priority over holders of contractual preemption rights.

This right is exercised by the person who has the right of preemption may demand that the property be sold to them for the price offered by the most favorable bidder at a public sale, or for the price and under the conditions stipulated in the conclusion on awarding the immovable property by direct agreement. Deadlines in this situation are short. In the case of a sale by direct agreement, the deadline

for the holder of the preemption right to provide a response as to whether they want to buy the property is eight days from the delivery of the conclusion on awarding the immovable property. In the case of a sale by public auction, this deadline is even shorter and amounts to three days from the delivery of the electronic sale report. Holders of preemption rights also provide a guarantee like other individuals.

Sale of immovable property

Immovable property is sold through oral public auction or by direct agreement. The public enforcement officer may determine only the sale by public auction. Parties may agree on a sale by direct agreement.

Electronic public auction

The law stipulates that immovable property may also be sold through electronic public auction if the public enforcement officer decides so or upon the party's proposal. However, according to the transitional and final provisions of the Law on Enforcement and Security, starting from September 1, 2020, public auctions for the sale of immovable and movable property may be organized exclusively in the form of electronic public auctions. Given that this date has long passed, public auctions have been organized exclusively as electronic public auctions on the e-Auction portal for quite some time.

The organization and procedure of electronic public auctions are regulated by a bylaw - the Rulebook on the Organization and Procedure of Electronic Public Auctions ("Official Gazette of the Republic of Serbia", No. 14/2020, February 21). This rulebook technically regulates the procedure for user registration as well as the procedure for announcing public sales and the course of the public sale.

Sale of immovable property at public auction

The conclusion on the sale of immovable property at a public auction is made immediately after the enforcement order becomes final.

The conclusion determines, above all, the conditions for the sale at public auction and from when and how the property can be sold by direct agreement by the parties' agreement. The conclusion also contains all essential information about the property (description of the property, whether it is free from individuals and things, whether there are third-party rights that remain after the sale, all encumbrances affecting the property, the assessed value as of the date of assessment, the time of the first public auction, the starting price, the deadline for payment, the amount of the security, and instructions for payment of the security, a warning regarding who cannot be a buyer, and the amount of the bidding increment determined as a percentage of the starting price, which cannot exceed 10%).

In the case of the sale of immovable property through electronic public auction, the conclusion on the sale also includes a specific note that the sale will be conducted through the electronic auction portal, as well as the bidding increment determined as a percentage of the starting price not exceeding 10%. Additionally, the conclusion contains all relevant data related to the electronic public auction procedure in accordance with the Rulebook on Electronic Public Auctions.

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The security must be paid no later than two days before the public auction; otherwise, the person will be deprived of participation in the public auction. The deadline for payment of the sale price cannot exceed 15 days from the date of the conclusion on awarding the immovable property.

Announcement and Service of the Conclusion on the Sale of Immovable Property at Public Auction

The conclusion on the sale of immovable property at a public auction is published on the electronic bulletin board of the Chamber and on the electronic auction portal. At their own expense, the party may publish the conclusion in the public media and inform intermediaries (immovable property agents) about the conclusion.

The conclusion on the sale of immovable property at a public auction is served to the parties, pledge creditors, participants in the procedure, and holders of contractual and statutory pre-emption rights registered in the cadastre.

Deposit for participation in the public auction

Only individuals who have deposited the security no later than two days before the public auction may participate as bidders in the public auction. The security amounts to 15% of the assessed value of the immovable property. The enforcement creditor and pledge creditor are not required to deposit security if their claims reach the amount of the security, and if, considering their order of settlement and the assessed value of the immovable property, the amount of the security could be satisfied from the sale price. The security is deposited into the account designated for the payment of public revenues that is not subject to seizure, in accordance with the Rulebook on the Organization and Procedure of Electronic Public Auctions.

Public auction

Public auction with a single bidder

A public auction is held even if only one person is present who has deposited the security and does not dispute being a potential bidder, even if they do not submit a bid (single bidder). If the sole bidder does not submit a bid, it is determined that the public auction has failed. At the request of the enforcement creditor submitted before the announcement of the public auction, the public enforcement officer may postpone the public auction in that case.

At most, two public auctions are held. The first public auction is held within a period that cannot be less than 15, nor more than 30 days from the date of the announcement of the conclusion on the sale of immovable property at a public auction on the electronic bulletin board of the Chamber and the electronic auction portal. If the property is not sold at the first public auction, the public enforcement officer determines that it has failed and orders a second public auction on the spot. The second public auction must start within a period of at least 15, and at most 30 days from the date of the first public auction.

Sale Price at Public Auction

Initial value of the property at the first public auction cannot be set at less than 70% of the assessed value, and at the second public auction, it cannot be set at less than 50% of the assessed value. The price can only be set at a higher amount than prescribed, and the public enforcement officer is obliged to set a higher price than 70% of the market price if the parties agree so.

Course of Public Auction

Before the start of the electronic public auction, the public enforcement officer confirms, as a duty, the fulfilment of the conditions for holding the electronic public auction electronically. The electronic public auction is conducted by the method of bidding with a predetermined bidding step. The initial price determined by the conclusion on the sale is visible on the electronic auction portal and represents the starting price for the bidding process. The bidding step is visible at any time during the electronic public auction. During the electronic public auction, bidders can only make bids that are increased by the predetermined bidding step. The electronic auction portal will automatically offer all bidders, except the bidder whose bid is currently the highest, the option to make a bid increased by the bidding step.

A bid is considered accepted when the electronic auction portal informs the bidder that their bid has been recorded as successfully placed. A bid successfully placed is recorded on the electronic auction portal as the current highest bid. The electronic auction portal records the exact time of placing the bid, the amount of the bid, and the unique identification number of the bidder.

The report on the electronic sale is delivered electronically to the public enforcement officer through the application maintained by the ministry. The report on the electronic sale is also delivered by the public enforcement officer to all parties to whom the conclusion on the sale is delivered.

Awarding immovable property

After concluding the public auction, the public enforcement officer announces the most favourable bidder and, after possible statements regarding the exercise of the pre-emption right, issues a conclusion on awarding the immovable property. The conclusion on awarding the immovable property includes, among other things, the first three most favourable bidders' full names or business names. The conclusion specifies that the property will be awarded to the next bidder who offered a directly lower price if the most favourable bidder fails to pay the price within the deadline stated in the conclusion on the sale. The same rule applies to the next bidder if they fail to pay the price within the deadline; the property is then awarded to the subsequent bidder. The conclusion is published on the electronic bulletin board of the Chamber and delivered to all recipients of the conclusion on the sale of the property at public auction, as well as to the bidders at the public auction.

Return and retention of deposited security at public auction

For bidders whose bid was not accepted, the security deposit is returned immediately after the conclusion of the public auction. The security deposit is returned to the second bidder when the most favourable bidder pays the price within the deadline. The security deposit is returned to the third bidder when either the most favourable bidder or the second bidder pays the price within the

deadline. In any case, participants who do not offer at least the initial price or withdraw from the public auction lose their security deposit. The same applies if the pre-emption right holder declares their intention to purchase the property under the same conditions as the most favourable bidder.

Failure of the public auction

The public auction is considered unsuccessful if:

- There are no bidders.
- No bidder accepts the sale price, which is equal to the initial price.
- The first three bidders from the awarding conclusion fail to pay the offered price within the deadline.

The failure of the public auction is determined by the public enforcement officer through a conclusion. If the second public auction fails, the public enforcement officer immediately calls upon the enforcement creditor to choose between satisfying the debt through the direct sale of the property or transferring property ownership rights. The enforcement procedure is terminated if the enforcement creditor misses the deadline for making a choice.

Sale of Immovable property by Direct Agreement

Cases of selling immovable property by direct agreement

Immovable property can be sold by direct agreement if the parties agree to it or if, after the failure of second public auction, the enforcement creditor chooses this option. The buyer deposits a security deposit amounting to 15% of the estimated value of the property directly before the conclusion of the sales contract.

Sale of immovable property by direct agreement based on agreement of the parties

The law prescribes the same deadlines for concluding agreements between parties as for the sale of movable property, as discussed in the section on enforcement of movable assets. By mutual agreement, the parties determine the buyer of the property, the deadline for concluding the sales contract by direct agreement, and the sale price, and other conditions may also be specified. Immediately after the agreement is reached, the public enforcement officer issues a conclusion on the sale of the property by direct agreement with all the details and conditions from the parties' agreement (the conclusion specifies the buyer, the deadline for contract conclusion, price, and payment deadline).

The sales contract can be concluded within 20 days from the date of publication of the conclusion on the sale of the property by direct agreement based on the agreement of the parties, and the payment deadline cannot exceed 15 days from the date of the conclusion on the allocation of the property.

The conclusion on the awarding property is made immediately after the conclusion of the sales contract, as the public enforcement officer verifies that the contract fulfils all the conditions from the conclusion on the sale of the property by direct agreement based on the agreement of the parties and other conditions necessary for its validity. If the agreement is not concluded within the specified period determined by the conclusion on the sale of the property by direct agreement based on the

agreement of the parties, the parties can amend the agreement and extend the deadline for contract conclusion within the next three days. If the sale by direct agreement fails for any reason, the public enforcement officer determines that the sale was unsuccessful, and the enforcement procedure continues in the state it was in before the agreement was concluded.

Sale of immovable property by direct agreement at the choice of the enforcement creditor

A conclusion on the sale of immovable property by direct agreement at the choice of the enforcement creditor is made immediately after the enforcement creditor chooses such settlement. The conclusion specifies the deadline for concluding the sales contract and the deadline for payment of the sale price. The sales contract may be concluded within 30 days from the date of the conclusion on the sale of immovable property by direct agreement at the choice of the enforcement creditor. The price of the immovable property is freely negotiated, and the deadline for payment of the price cannot exceed 15 days from the date of the conclusion on awarding the immovable property.

The sales contract is concluded with the person who has signed an agreement with the enforcement creditor regarding the price and deadline for payment of the price and has informed the public enforcement officer about it.

As with the sale of movable property, the enforcement creditor freely negotiates the price, but if the price is lower than 30% of the estimated value of the immovable property, it is considered that the creditor has been satisfied in the amount of 30% of the estimated value of the immovable property. This limits the enforcement creditor in terms of satisfaction but not in terms of the sale price, while protecting the enforcement debtor from a situation where the enforcement creditor would sell the immovable property for an excessively low price.

A conclusion on awarding the immovable property is made immediately after the conclusion of the sales contract.

Settlement by transfer of property rights in immovable property

Cases of Settlement by Transfer of Property Rights

If the sale by direct agreement at the choice of the enforcement creditor is unsuccessful, the public enforcement officer determines that the immovable property has not been sold and calls upon the enforcement creditor to, within 8 days, demand settlement by transfer of property rights in the immovable property or propose another means and subject of enforcement. If the enforcement creditor fails to do so, the proceedings are terminated. The creditor is warned about the termination. Settlement by transfer of property rights in the immovable property can also be requested in the case of unsuccessful public auction if the enforcement creditor chooses such settlement. The public enforcement officer issues a conclusion on the transfer of property rights in immovable property.

In the conclusion, among other things, the enforcement creditor undertakes to deposit within a specified period the amount necessary to settle the claims of other persons entitled to settlement. If the creditor deposits the amount within the deadline, the public enforcement officer issues a

conclusion on surrender of the immovable property. If the enforcement creditor fails to deposit the amount within the deadline, the proceedings are terminated. In the case of the transfer of property rights in the immovable property to the enforcement creditor, it is considered that the creditor has been satisfied in the amount of 50% of the estimated value of the immovable property reduced by the amount deposited for the settlement of other persons entitled to settlement (if such persons exist). If the amount (with all reductions) exceeds the amount of the claim, the enforcement creditor is obliged to pay the difference to the enforcement debtor within the deadline determined by the public enforcement officer, and if the creditor fails to pay the difference to the enforcement debtor, the conclusion on surrender of the immovable property is revoked.

Payment of the sale price

The buyer is obliged to pay the sale price within the deadline determined by the conclusion on the sale of immovable property.

If the highest bidder at the public auction fails to pay the price offered within the deadline specified by the conclusion on the sale, the public enforcement officer announces by conclusion that the sale is ineffective towards them, and the immovable property is awarded to the next bidder in line, with a deadline for payment of the price. If they also fail to make the payment within the deadline, the sale is announced ineffective towards them as well, and the immovable property is awarded to the third bidder in line, with a deadline for payment. These rules also apply to the holder of the pre-emptive purchase right who has declared that they are purchasing the immovable property under the same conditions as the highest bidder. Only if the third bidder in line fails to pay the purchase price within the deadline, the public enforcement officer determines that the public auction has failed.

If the enforcement creditor appears as the buyer, and the amount of their claim is lower than the sale price, and if they could be satisfied from the sale price, they pay only the difference between the claim and the sale price.

Transfer of immovable property to the buyer

As soon as the buyer pays the sale price, the public enforcement officer issues a conclusion on surrender of the immovable property, which is delivered to all parties to whom the conclusion on the sale of immovable property is delivered. Based on the conclusion on surrender, the buyer acquires ownership rights. This is important because the conclusion on surrender to the buyer serves as proof of ownership of the immovable property, as this conclusion is issued when the buyer has fulfilled their obligation to pay the price. This conclusion also instructs the actual holder of the immovable property to transfer the possession of the immovable property to the buyer within a specified period. Additionally, this conclusion establishes that any encumbrances, real estate easements, and pledge rights extinguish upon the sale of the immovable property. The same conclusion instructs the cadastre of immovable property to register the ownership rights in favour of the buyer and to remove all annotations and encumbrances extinguished by the purchase and not assumed by the buyer.

Acquisition of possession by the buyer

Actual holder in the immovable property transfers possession of the property to the buyer within the deadline specified by the conclusion on the surrender of immovable property (unless otherwise determined by law or agreement). If another person remains in the immovable property, it is considered that the property has been surrendered to the enforcement debtor upon the issuance of the conclusion on the surrender of immovable property. If actual holder of the immovable property refuses to surrender the property to the buyer, the public enforcement officer will proceed with enforcement proceedings for eviction and surrender of the immovable property. In this case, the buyer will advance the costs of the eviction and surrender proceedings, which will ultimately be borne by the person whose eviction is being carried out and due to whose behaviour the costs have been incurred. Individuals who have personal easements or who are tenants of the property cannot be evicted in cases where those rights continue to exist even after the sale of the property.

Settlement

As with all actions in the enforcement procedure, the enforcement officer issues a conclusion on settlement, and settlement begins immediately after the conclusion on the surrender of immovable property to the buyer. The enforcement officer is obliged to transfer the funds obtained from the sale of the immovable property within 30 days from the issuance of the settlement conclusion from their designated account to the accounts of the persons satisfied from the sale price. (This may not only be the enforcement creditor but also other persons who had the right to satisfaction from the price of the immovable property, e.g., the pledge creditor).

The conclusion on settlement is based on the state of the facts from the case files, the cadastre of immovable property, and other public records. If there are claims arising from enforcement decisions that were not final at the time of issuing the settlement conclusion, they are satisfied when the enforcement decisions become final.

The rest of the price is handed over to the enforcement debtor.

Priority in settlement

From the sale price, settlement is prioritized in the following order:

- 1) Costs of the enforcement procedure that were reported before the conclusion on settlement was made.
- 2) Claims based on statutory maintenance that are evidenced by an enforcement document that arose before the issuance of the oldest enforcement decision and were reported before the conclusion on the award of immovable property was made.

Order of settlement of other claims

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After settling claims that are given priority, the remaining claims are classified into three orders of settlement:

- 1) Claims of secured creditors;
- 2) Claims of individuals entitled to compensation due to the extinguishment of personal easements and real estate encumbrances by the sale of immovable property;
- 3) Claims of enforcement creditors.

Each row of enforcement creditors has priority over the previous one. Primarily, the first row of creditors is satisfied. Only when the first row is satisfied, the satisfaction moves on to the next row of creditors, and so on until all rows of creditors are satisfied. It may happen that the amount is not sufficient to satisfy all rows of creditors. If the amount is insufficient, the creditors in the next row of satisfaction may remain entirely unsatisfied. For example, if the entire amount of the sale price is exhausted in satisfying secured creditors, the other creditors from the remaining two rows will not be satisfied. However, there are situations in which the funds are not sufficient to satisfy all creditors of the same row. In that situation, creditors are satisfied according to the order of acquiring the right to satisfaction, with the creditor with the oldest right being satisfied first. In situations where all creditors have acquired the right simultaneously, they are satisfied in proportion to the heights of their claims.

Costs awarded in the enforcement document have the same priority order of settlement as the main claim, which applies to interest determined by the law regulating mortgages.

The amount of compensation for personal easements and real encumbrances

The amount of compensation for personal easements and real encumbrances will primarily be determined by a written agreement between the creditor and the parties entitled to compensation. If the amount is not agreed upon, it will be determined by the public enforcement officer based on the circumstances of each individual case, considering all relevant facts. The buyer of the immovable property may also negotiate with the parties entitled to compensation for the extinguishment of personal easements and real encumbrances to take over the personal easements and real encumbrance by the deadline for payment, with a reduction in the sale price.

Special rules of settlement apply to the claims of a pledge creditor that have not matured, overdue claims for individual periodic payments, conditional claims, as well as in relation to individuals with a prenotation of right of pledge and a notice of dispute. These rules are regulated by the provisions of Articles 205-208 of the Law on Enforcement and Security. These claims are certainly considered during settlement.

Special provisions on enforcement proceedings on immovables not registered in the real estate cadastre

In the Republic of Serbia, there are immovables that are not registered in the cadastre. This is an exception to the rule. In this situation, the enforcement creditor is obliged to submit, along with the proposal for enforcement, documents suitable for registering ownership of the immovables in favour of the enforcement debtor. These are documents proving that the enforcement debtor is the owner of the immovable property. In that case, the court will immediately forward the submitted document to the authority responsible for maintaining the real estate cadastre and suspend the proceedings

until the ownership right of the enforcement debtor is registered. There are situations when the immovable or part of the immovable is not registered in the cadastre and there is no possibility of registering ownership rights on them. In this situation, the enforcement creditor will provide a statement that registration of ownership is not possible and submit it with the proposal for enforcement. In this situation, a decision on enforcement is made on the immovable that is in the unregistered ownership of the enforcement debtor, provided that the enforcement creditor submits or designates as evidence of unregistered ownership an appropriate document naming the enforcement debtor or a document proving that the enforcement debtor is the owner. The court will order the enforcement debtor or another person to submit the necessary documents under the threat of a fine.

After the court issues a decision on enforcement on the immovable that is in the external unregistered ownership of the enforcement debtor, the immovable is listed by the public enforcement officer at the inventory meeting, to which the enforcement creditor, the enforcement debtor, the owners of adjacent immovables, and the immediate possessor of the immovable are invited, if it is not the enforcement debtor.

The minutes of the inventory of the immovable, determined to be in the ownership of the enforcement debtor, have the effect of annotation of the enforcement order in the real estate cadastre and are published on the electronic bulletin board of the Chamber.

In the conclusion on the sale of immovable property, the public enforcement officer specifically states that the immovable property is in unregistered ownership.

Joint sale of immovable property and movable assets

The Law on Enforcement and Security also recognizes the possibility of joint sale of immovable and movable property, and in this situation, the immovable property is sold together with the movable assets located in it, or functionally related to the immovable property. In this case, a single total price is determined. Joint sale can be organized as a sale by public auction or as a sale by direct agreement. If the immovable property and the movable property could not be sold together, they are separated and sold separately, in which case the sale procedure starts anew. In the procedure of joint sale of immovable and movable property, the enforcement creditor cannot be satisfied by transferring ownership of the property.

Once the buyer pays the total sale price within the deadline specified in the conclusion on the joint sale of property, a court expert determines the portion of the total price allocated to the purchase of the immovable property and the portion allocated to the purchase of the movable assets, and the satisfaction of enforcement creditors and other persons entitled to satisfaction is carried out separately for immovable properties, and separately for movable assets.

Additionally, if one or more public enforcement officers conduct one or more enforcement proceedings for the satisfaction of monetary claims by selling immovable property and movable assets that meet the conditions for joint sale, at the proposal of the enforcement creditor or ex officio, a decision on merging proceedings and joint sale of immovable and movable property is made, and the enforcement continues.

IV.6 Enforcement against Wages and Other Permanent Pecuniary Income

Firstly, it is necessary to define the concept of wages. Wages refer to all earnings of an employee based on work, excluding taxes and contributions paid from the earnings. The provisions of the Law on Enforcement and Security regarding enforcement on monetary claims of the enforcement debtor apply to enforcement on wages. In the decision on enforcement on wages (enforcement order), a portion of the debtor's wages is attached, and the employer is ordered to pay the attached amount to the enforcement creditor until the enforcement creditor's claim is fully satisfied. The public enforcement officer is not authorized to request information from the employer about the amount of wages. Also, enforcement on wages continues even if there is an increase or decrease in wages after the enforcement decision is delivered to the employer. Changes in the amount of wages will not affect enforcement in terms of implementation, but will only affect the monthly amount attached.

Enforcement creditors seeking statutory maintenance, annuity for partial or complete loss of working capacity, or annuity for maintenance that was lost due to the death of the maintenance provider have priority in satisfaction over other enforcement creditors even when enforcement for the satisfaction of other enforcement creditors has already commenced.

As mentioned earlier, in the Republic of Serbia, public enforcement officers have access to the Central Register of Compulsory Social Insurance through a protected judicial network. Public enforcement officers can query this registry to obtain necessary data about the enforcement debtor. This registry will indicate whether the person is employed or not, whether they are a pension beneficiary, etc. If the employment relationship has terminated, the public enforcement officer will have access to data about the termination of the employment relationship. Additionally, there is the possibility of developing alarms, and public enforcement officers can use the alarm functionality to be notified if the enforcement debtor, who was not employed at the time the public enforcement officer made the inquiry, becomes employed in the meantime. This method of data accessibility, coupled with the possibility of using additional functionalities that enable activating alarms when changes occur in the registries, contributes to the efficiency of the enforcement procedure.

It is understandable that the debtor's earnings cannot be attached in their entirety, as this would leave the debtor without means for basic living expenses. In this regard, the LES prescribes limitations on enforcement regarding wages and other income. Enforcement on wages or salary, wage compensation, or salary compensation can be carried out up to half of the earnings, wage compensation, salary, or salary compensation, or up to a quarter if their amount is equal to or less than the minimum wage determined in accordance with the law. Enforcement on wages or salary, wage compensation, or salary compensation that does not exceed the average net wage according to the latest published data of the competent authority responsible for statistical affairs can be enforced up to one-third. The limitations have already been discussed in section II.7.

The public enforcement officer serves the enforcement order to the employer of the debtor and the conclusion on the enforcement against the debtor's wages. In this conclusion, the public enforcement officer will specify the limitations and call on the employer to adhere to the limitations when seizing

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a portion of the wage. The employer will transfer the seized portion of the wage to the account of the enforcement creditor, while the remaining portion of the wage will be paid to the debtor.

Claims for which non-cash payment is not prescribed are collected by the enforcement creditor at the counter where the debtor is paid wages.

In this case, the enforcement creditor has the right to have the seized portion of the wage paid to them at the expense of the debtor through mail to the address they indicate or to their bank account, after deducting postal charges.

The seized portion of the wage is deposited into the dedicated account of the public enforcement officer, who immediately transfers the deposited amount to the account of the enforcement creditor.

Change of employer

If there is a change of employer, the enforcement decision will apply to the new employer from the moment the enforcement order is served to them. The employer with whom the debtor's employment relationship has ended is required to immediately deliver the enforcement order to the new employer via registered mail and inform the public enforcement officer about it. If the new employer is unknown, they must promptly inform the public enforcement officer. The public enforcement officer is obliged to inspect the records of employed persons and health insurance to deliver the enforcement order to the new employer of the debtor and inform the enforcement creditor accordingly. However, if after this inspection it is found that the debtor does not have regular income, the enforcement creditor is called upon to propose the addition of new instrument and subject of enforcement or a change in the enforcement instrument and subject of enforcement within eight days. If the enforcement creditor fails to make a proposal within this period, the enforcement proceedings are discounted.

The enforcement creditor may, until the completion of the enforcement proceedings, file a motion to the public enforcement officer to render a decision that has the effect of the enforcement order and which compels the employer to pay to the enforcement creditor the instalments of the wage that employer failed to attach and collect, and sets the instrument and the subject of enforcement, if the employer fails to pay the instalments in due time. The ruling is executed by the one who carries out the enforcement against the wage of the enforcement debtor.

The employer is liable for any damage suffered by the enforcement creditor because the employer did not comply with the enforcement order or failed to promptly deliver the enforcement order to the new employer via registered mail with acknowledgment of receipt after the termination of the debtor's employment relationship, or failed to promptly inform the public enforcement officer if they did not know who the new employer of the debtor is.

Administrative order with debtor's consent

In the Republic of Serbia, it is possible for the debtor to consent to a portion of their wages being attached to satisfy a claim. For example, this situation arises when an employed individual takes out a loan from a bank and agrees to repay the loan instalments through administrative order. This means that the employer will pay a portion of the wage to the employee, while another portion will be directly transferred to the bank for loan repayment. This way, the creditor, in this case the bank, obtains additional security. The administrative order with the debtor's consent has the same effect as an enforcement order on wages. Despite the administrative order, enforcement creditors who seeking statutory maintenance, annuity for partial or complete loss of working capacity, or annuity for maintenance that was lost due to the death of the maintenance provider are settled prior to the creditors in whose favour the administrative order was instituted, up to the full amount or *pro rata* to the amount of the claim, even if the enforcement for settlement of claim covered by the administrative order has already started.

Provisions related to wage enforcement are similarly applicable to income from social security and other regular income of the debtor.

Regarding other regular income, limitations described in Section II.7 also apply.

IV.7 Attachment under the debtor's debtor

When it comes to enforcing monetary claims against the enforcement debtor, it's crucial to note that certain claims are exempt from enforcement. This has been discussed in Section II.7. Additionally, there are limitations on specific monetary claims. This was addressed in the section dealing with the implementation of enforcement on behalf of the enforcement debtor, as well as in the general section discussing exemptions from enforcement and limitations, as seen in Section II.7.

Enforcement Actions

Enforcing monetary claims against the enforcement debtor is effected by attachment and transfer of claims to satisfy the enforcement creditor. The enforcement request may include a demand for the attachment of claims and their transfer, with or without specifying the type of transfer, or solely the attachment of claims. An enforcement creditor who solely requests the attachment of claims in the enforcement request must propose the type of transfer within ten days from the receipt of the enforcement debtor's response or the notification of the debtor's lack of response. Failure to do so results in the suspension of the enforcement procedure. The enforcement order specifies the attachment and transfer of the enforcement debtor's claims, but not the type of transfer. It outlines the actions regarding the attachment of claims and when they occur. The enforcement order is also communicated to the enforcement debtor, who has no right to appeal against it. The enforcement debtor's claim can only be attached and transferred to the extent necessary to satisfy the enforcement creditor's claim, except for indivisible claims. If multiple enforcement creditors request enforcement against the same divisible claim sufficient to satisfy all claims, attachment and transfer are separately determined for each creditor, in corresponding amounts. The enforcement debtor's claim is considered attached upon the delivery of the enforcement order to the enforcement debtor. Attachment prohibits the enforcement debtor from fulfilling the claim to the enforcement creditor

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and from collecting or disposing of it, as well as the collateral securing it. Violation of these prohibitions may result in a monetary penalty.

The pledge rights of the enforcement creditor on the claims of the enforcement debtor

The enforcement creditor acquires pledge rights on the claims of the enforcement debtor at the moment of their attachment when they also gain the right to satisfaction. The pledge rights extend to the interest accruing after the attachment. If the claim of the enforcement debtor is secured by a mortgage or pledge registered in the real estate cadastre or the Register of Pledges, the public enforcement officer orders that the enforcement order be entered into the real estate cadastre or the Register of Pledges where the mortgage or pledge is already registered, thereby stepping into the place of the enforcement debtor. By doing so, the enforcement creditor also acquires the right to be satisfied before the enforcement debtor on the subject of the mortgage or pledge, according to the order of satisfaction of the enforcement debtor.

If the claim of the enforcement debtor is secured by a possessory pledge, it is handed over to the enforcement creditor only if the pledger agrees to it. If the enforcement debtor refuses to hand over the subject of the possessory pledge to the enforcement creditor, possession is transferred to the enforcement creditor by attaching the property from the enforcement debtor. The guarantor of the claim of the enforcement debtor remains liable as the guarantor.

Statement of the enforcement debtor's debtor

The public enforcement officer orders the debtor of the enforcement debtor to, within a period of up to five days from the date of delivery of the enforcement order, declare whether and to what extent they acknowledge the claim, whether they are willing to satisfy the claim, and whether their obligation is conditional on fulfilling some other obligation. The statement of the enforcement debtor's debtor is immediately delivered to the enforcement creditor. If the debtor of the enforcement debtor misses the deadline for making a statement, the public enforcement officer informs the enforcement creditor that the debtor of the enforcement debtor has not made a statement. The debtor of the enforcement debtor is liable to the enforcement creditor for damages caused by failure to make a statement or by inaccurate or incomplete statements. The public enforcement officer warns the debtor of the enforcement debtor about the obligation of accurate and complete statement, and about the consequences of breaching this obligation. The debtor of the enforcement debtor is required to inform the public enforcement officer immediately after the delivery of the enforcement order about the pledge right on the claim of the enforcement debtor that is not registered in the Register of Pledges.

Order of satisfaction

First, claims based on statutory maintenance that are proven by the enforcement instrument and reported before the conclusion of the transfer of claims are satisfied. Following that, claims on which a pledge right was established before the initiation of the enforcement procedure are satisfied. If the pledge right is registered in the Register of Pledges, the creditor is satisfied even if they did not report

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the claim in the enforcement procedure. If the pledge right is not registered in the Register of Pledges, satisfaction occurs only if the claim was reported before the conclusion of the transfer of claims.

Next, the enforcement creditors are satisfied. If multiple enforcement creditors have submitted proposals for enforcement on the same claim, and if all of them cannot be satisfied in full, the order of their satisfaction is determined based on the date of submission of the enforcement proposal in court. The next enforcement creditor is satisfied when the previous one is satisfied in full. Multiple enforcement creditors who submitted enforcement proposals on the same day are satisfied simultaneously. If, in this case, all enforcement creditors cannot be satisfied in full, they are satisfied proportionally to the amount of their claims.

The costs of the enforcement procedure and the costs and interest awarded in the enforcement instrument have the same order of satisfaction as the main claim."

Transfer of the monetary claim of the enforcement debtor

The monetary claim is transferred to the enforcement creditor for collection or in lieu of performance, at the choice of the enforcement creditor.

When the type of transfer is not specified in the proposal for enforcement, the enforcement creditor must propose the type of transfer to the public enforcement officer within 10 days from the statement of the enforcement debtor's debtor or the notification that the debtor's debtor has not expressed their opinion.

The claim is transferred to the enforcement creditor when the conclusion on the transfer is delivered to the debtor of the enforcement debtor. When multiple parties are satisfied, the conclusion on the transfer specifies who is satisfied, in what amount, and in what order. The conclusion on the transfer is delivered to both the enforcement debtor and the parties being satisfied.

A claim that, for some reason, cannot be divided in terms of transfer or satisfaction (indivisible claim) is transferred in its entirety to the enforcement creditor, who, if their claim is less than the transferred claim, must provide security for the difference before the transfer. Additionally, they must provide security before the transfer for the amount needed to satisfy other parties entitled to satisfaction. If the enforcement of the transferred claim is limited, the transfer is allowed if the enforcement creditor provides security for the portion of the claim where enforcement cannot be executed.

If multiple enforcement creditors have proposed the transfer of an indivisible claim, it is transferred to the one who first submitted the proposal for transfer, and if multiple proposals are submitted on the same day, it is transferred to the one with the largest claim. It is transferred to them if they provide security for the amount needed to satisfy other parties entitled to satisfaction, and if the enforcement of the transferred claim is limited, they must also provide security for the portion of the claim where enforcement cannot be executed. The transfer of the claim does not establish priority in satisfaction nor does it change the order of satisfaction.

Transfer of the monetary claim for collection

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After the transfer of the monetary claim for collection, the enforcement creditor is authorized to demand payment of the transferred claim from the debtor of the enforcement debtor if it is due. They are then entitled to take all necessary actions to preserve and satisfy the claim, utilize rights related to the security of the transferred claim, and address the guarantor of the enforcement debtor's debtor as appropriate to the type of guarantee. The enforcement creditor must not reach a settlement with the debtor of the enforcement debtor at the expense of the enforcement debtor, release the debt of the debtor of the enforcement debtor, dispose of the claim in any other way, or agree with the debtor of the enforcement debtor to have the dispute regarding the claim decided by a chosen court. The debtor of the enforcement debtor may raise objections to the enforcement creditor to whom the claim has been transferred, which they could raise against the enforcement debtor.

Authorities of the enforcement creditor to whom the claim is transferred:

1. **Authority of the enforcement creditor to submit a proposal for enforcement against the debtor of the enforcement debtor:** If the claim of the enforcement debtor against their debtor is based on an enforceable or credible instrument, the enforcement creditor may, based on the conclusion of the public enforcement officer regarding the transfer of the claim and the enforceable or credible instrument, submit a proposal for enforcement against the debtor of the enforcement debtor.
2. **Authority of the enforcement creditor to intervene in an already initiated enforcement procedure:** If a decision order against their debtor has already been made based on the proposal of the enforcement debtor, the enforcement creditor, based on the conclusion of the public enforcement officer regarding the transfer of the claim, intervenes in the already initiated enforcement procedure in place of the enforcement debtor.
3. **Authority of the enforcement creditor to enforce their rights in litigation:** If the claim of the enforcement debtor against their debtor is not based on an enforceable or credible instrument, the enforcement creditor, based on the conclusion of the public enforcement officer regarding the transfer of the claim, may enforce their rights in a civil proceeding.

Transfer for the purpose of collection of claims registered in the real estate cadastre or pledge registry

The transfer for the purpose of collection of claims secured by mortgage or pledge is registered in the real estate cadastre or pledge registry where the mortgage and pledge are registered, upon the order of the public enforcement officer. If it is determined by the enforcement instrument that the obligation of the debtor of the enforcement debtor is conditioned on the obligation of the enforcement debtor to deliver an item in their possession to them, the public enforcement officer, upon the proposal of the enforcement creditor, orders the enforcement debtor to deliver the item to the public enforcement officer within a specified period, so that they can deliver it to the debtor of the enforcement debtor. Upon the expiry of the deadline, and upon the motion of the enforcement creditor, the public enforcement officer orders the enforcement debtor to surrender the asset to the public enforcement officer, which is carried out under the provisions on the enforcement of the claim for surrendering specified movable asset or delivery of specified quantity of movable assets. The enforcement creditor who has filed a lawsuit or proposal for enforcement for the collection of the

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transferred claim is obliged to inform the enforcement debtor thereof without delay. Otherwise, they are liable for any damage caused by this omission.

Liability of the creditor for damages

An enforcement creditor who fails to exercise due care in the collection of an indivisible transferred claim is liable for any damage caused thereby to the enforcement debtor, another enforcement creditor, and any other person entitled to the transferred claim. Upon the proposal of another enforcement creditor or the enforcement debtor, the public enforcement officer may revoke the decision on the transfer of the claim to an irresponsible enforcement creditor and transfer the claim to another enforcement creditor.

Satisfaction

An enforcement creditor to whom the claim has been transferred for collection is considered satisfied when they receive payment from the enforcement debtor or when they receive money deposited by the enforcement debtor with the public enforcement officer. The creditor is satisfied up to the amount of the claim collected. If an enforcement creditor who has collected an indivisible transferred claim receives more than the amount due to them for satisfaction, they must deposit the excess with the public enforcement officer. The public enforcement officer distributes this surplus to other persons entitled to satisfaction. The enforcement creditor who has deposited the excess with the public enforcement officer is refunded any collateral they have provided.

Transfer of monetary claims in lieu of fulfillment

By transferring the claim in lieu of fulfillment, the claim passes to the enforcement creditor up to the amount transferred, with the effect of ceding of the claim with compensation. This means that the enforcement creditor is considered satisfied for the amount of the transferred claim at the time of transfer of the claim, not at the time of performance of the enforcement debtor's obligation. If the transferred claim is secured by a mortgage or pledge registered in the real estate cadastre or another public registry, the public enforcement officer orders the transfer of the mortgage and pledge from the enforcement debtor to the enforcement creditor and the strike off of the enforcement debtor's mortgage or pledge. In this way, the enforcement debtor is not relieved of responsibility for the truthfulness and collectability of the transferred claim.

IV.8 Enforcement against shares

Enforcement of monetary claims against financial instruments, stakes in company, and securities

In the enforcement order, the court instructs the Central Securities Depository to register a prohibition on the disposal of financial instruments subject to enforcement and the pledge of the enforcement creditor on them and determines their sale. The enforcement order must also contain the business name of the investment company managing the account of the financial instruments of the enforcement debtor and information about the designated monetary account of the enforcement

creditor to which proceeds from the sale are deposited. The enforcement order is delivered to the enforcement creditor, enforcement debtor, Central Securities Depository, and the investment company managing the account of the financial instruments of the enforcement debtor. The Central Securities Depository records the data from the enforcement order. Simultaneously, the Central Securities Depository records the prohibition on the disposal of financial instruments subject to enforcement and the pledge of the enforcement creditor on them.

Sale of Financial Instruments

The enforcement officer issues a conclusion on the sale of financial instruments subject to enforcement when notified by the Central Securities Depository that it has registered the prohibition on disposal and the pledge, provided that the enforcement order has become legally binding. The sale of financial instruments is carried out by the investment company managing the account of the financial instruments of the enforcement debtor. Financial instruments are sold on a regulated market or on a multilateral trading facility in accordance with the law regulating the capital market. They are sold on the Over-The-Counter (OTC) market only if their value has been assessed beforehand and if the sale on a regulated market or multilateral trading facility is unsuccessful. Financial instruments not traded on a regulated market or multilateral trading facility are exclusively sold on the OTC market, following a prior assessment of their value. The value of financial instruments listed on the stock exchange is their average price on the exchange in the last 30 days before the assessment, determined based on exchange reports. In other cases, the enforcement officer entrusts the valuation of financial instruments to authorized entities, according to the law regulating commercial companies.

Transferring ownership rights to financial instruments to the enforcement creditor is not permitted.

Regarding other matters related to the sale of financial instruments and the satisfaction of the enforcement creditor from the sale price, the rules regarding the enforcement for the satisfaction of monetary claims on movable assets are applied, (except for rules on electronic public auctions, which do not apply) provided they are not in conflict with the provisions of the law regulating the capital market and the rules of the markets where financial instruments are sold.

Enforcement on shares in a company

Enforcement Actions

Enforcing monetary claims on shares in a company involves attaching the shares, registering a pledge on the shares, assessing the value of the shares, and selling the shares to satisfy the enforcement creditor. The enforcement order on shares in a limited liability company, partnership, and limited partnership is served on the enforcement creditor, enforcement debtor, and the Business Registers Agency. The necessary data from the enforcement order are recorded in the Pledge Register. Simultaneously, the enforcement creditor's pledge on the shares is entered in the Pledge Register, while the attachment of the shares and the notation of the initiation of the enforcement procedure for the sale of the shares are recorded in the Register of Business Entities.

In this case, the rules governing the assessment and sale of movable property are applied to the assessment and sale of shares, as discussed earlier (except for provisions on electronic public auctions,

which do not apply in the case of selling shares in a company). When disposing of shares in a company, the pre-emptive right of company members exists. In this case, the rules discussed in the section on the enforcement of immovable property are applied. The rules regarding the pre-emptive right of purchase of immovable property are also applied to the pre-emptive right of purchase of shares in a company.

Enforcement on Securities

Enforcement is conducted by attaching the claim contained in the securities and transferring the claim to satisfy the enforcement creditor. Monetary claims from securities are attached by the enforcement officer taking possession of the securities from the enforcement debtor and retaining them. Legal actions necessary for preserving or exercising the claim from the attached securities are carried out by the person specified in the enforcement officer's conclusion. The claim is transferred when the enforcement officer provides a statement on the transfer of securities and hands it over to the enforcement creditor. The claim is indivisible and transferred to the enforcement creditor in its entirety. The enforcement creditor, whose claim is smaller than the claim being transferred, shall, prior to the transfer, deposit a pledge to secure that the surplus is to be transferred to the public enforcement officer. If multiple enforcement creditors have proposed the transfer, the claim is transferred to the enforcement creditor who first submitted the proposal for transfer. If multiple proposals are submitted on the same day, the claim is transferred to the enforcement creditor with the largest claim.

The rules regarding the transfer of monetary claims for collection and the transfer of monetary claims in lieu of performance are also applied to the transfer of claims from securities.

IV.9 Other attachment procedures

Enforcement of claim of enforcement debtor to surrender them immovable property or surrender or deliver movable assets

The Law on Enforcement and Security particularly distinguishes enforcement on the debtor's claim when that claim relates to surrendering of the immovable property or surrender or deliver movable assets. Enforcement of the debtor's claim is carried out through the attachment of the claim, transfer of the claim, surrendering the immovable or movable assets to the enforcement creditor, and sale of the property to satisfy the enforcement creditor. When the subject of the debtor's obligation is divisible, the claim can also be partially transferred to the enforcement creditor. If the subject of the obligation is indivisible and the enforcement creditor's claim is less than the claim being transferred, the enforcement creditor must provide security for the difference between their claim and the value of the subject of the obligation before the transfer. The enforcement creditor acquires a pledge right on the debtor's claim when the claim is attached. The enforcement officer issues, ex officio, a decision on the transfer of the claim. This decision transfers the right to collect the claim to the enforcement creditor and orders the debtor of the enforcement debtor to surrender the immovable or movable property to the enforcement creditor or a person appointed by them.

If the debtor's claim has not yet matured, the decision on the transfer of the claim orders the delivery of the property upon maturity. The enforcement creditor may file a complaint to request the enforcement debtor to surrender him the asset. If the obligation of the debtor of the enforcement debtor to surrender the assets to the enforcement debtor is established by an enforcement instrument, the enforcement creditor may file a motion for enforcement against the enforcement debtor's debtor, with the aim of surrendering the assets.

Movable assets

The surrender of an asset is the basis for the enforcement creditor to acquire a pledge on the movable asset by registration in the Pledge Register. The priority order of their pledge is determined according to the date of attachment of the debtor's claim. Movable assets are left in the custody of the enforcement debtor, or the enforcement creditor, or another person who already has possession of the asset. The enforcement officer may, upon the enforcement creditor's request, attach the assets from the enforcement debtor and entrust them to the custody of the enforcement creditor or another person designated by the enforcement creditor. In this case, the costs of keeping the assets are initially borne by the enforcement creditor or the person he designates, and the enforcement debtor reimburses them, while the risk of loss or damage to the assets is borne by the enforcement creditor, except in cases of force majeure or an accident.

If the loss or damage to the assets cannot be attributed to force majeure or an accident, the enforcement creditor is considered satisfied up to the value of the lost asset or the value of the damaged asset.

The same applies when the asset is held by the enforcement creditor or if the enforcement officer, at the request of the enforcement creditor, orders that the asset be entrusted to a person designated by the enforcement creditor to keep it instead of the enforcement creditor or another person. The rules on the sale of movable assets and the satisfaction from the proceeds of the sale apply as in the case of enforcement on movable assets (see IV.2).

Immovable property

The enforcement creditor is obligated to manage the immovable property as a good household manager, in the name and for the account of the enforcement debtor. The surrender of immovable property is the basis for the enforcement creditor to acquire a pledge on the immovable property by registration in the real estate cadastre. The priority order of their pledge right is determined according to the date of attachment of the debtor's claim. The enforcement creditor is required, for the satisfaction of the claim, to propose to the enforcement officer the issuance of a conclusion on the sale of immovable property within 30 days from the date of issuance of the conclusion on the transfer of the claim, otherwise, the enforcement procedure is terminated.

If there is a sale of immovable property for the purpose of satisfaction, the rules regarding enforcement on immovables already discussed apply to that procedure (see IV.5).

IV.10 Handing over movable assets

Depending on the nature of the movable property, i.e., whether the surrender of individually specified asset or replaceable asset is sought, the procedural rules and the rights of the enforcement creditor will differ if the property is not found in the possession of the enforcement debtor or another person.

Surrender of individually specified movable property

Individually specified movable property found in the possession of the enforcement debtor is attached by the public enforcement officer and handed over to the enforcement creditor with receipt. Similarly, enforcement is carried out when the property is found in the possession of another person willing to surrender it. The public enforcement officer informs the enforcement creditor of the time and place of the seizure of the asset. However, if the property is not found in the possession of the enforcement debtor, the enforcement creditor may, within eight days of being notified of this, propose that the property be appraised (by the public enforcement officer). Subsequently, the public enforcement officer issues a decision with the effect of an enforcement order obligating the enforcement debtor to pay the appraised value of the asset to the enforcement creditor. If the enforcement creditor fails to make a proposal within the specified period, the enforcement procedure is terminated. If the third party is unwilling to surrender the property or claims that the property is not in their possession, the enforcement creditor may, within eight days of being notified of this, propose to the public enforcement officer to issue a decision transferring the enforcement debtor's claim for surrendering the property to the enforcement creditor. Alternatively, within the same period, the enforcement creditor may propose that the property be appraised, and the public enforcement officer issue a decision with the effect of an enforcement decision obligating the enforcement debtor to pay the appraised value of the property to the enforcement creditor. If the enforcement creditor fails to submit any proposal within the specified period, the enforcement procedure is terminated.

Delivery of replaceable assets

When the enforcement document specifies the delivery of a certain quantity of replaceable assets found in the possession of the enforcement debtor or another person, enforcement is carried out as if individually specified movable asset is being surrendered.

If the replaceable assets are not found in the possession of the enforcement debtor or the other person is unwilling to surrender them or claims they are not in their possession, the public enforcement officer may, at the request of the enforcement creditor, authorize the enforcement creditor to purchase the assets from another party within a specified period. The enforcement creditor who purchases the assets from another party may, within eight days of the purchase, propose that the public enforcement officer issue a decision with the effect of an enforcement order obligating the enforcement debtor to pay the value of the assets purchased. Furthermore, the enforcement creditor also has the right, within eight days of being informed that the assets are not found in the possession of the enforcement debtor, that the other person is unwilling to surrender them, or claims they are not in their possession, to propose that the public enforcement officer issue a decision with the effect

of an enforcement order obligating the enforcement debtor to deposit with the court or public enforcement officer the amount of money needed for the enforcement creditor to purchase the assets from another party. The public enforcement officer enforces the conclusion on depositing the monetary amount ex officio. This right of the enforcement creditor also applies in cases where they could not purchase the assets from another party within the specified period. In such cases, the proposal can be submitted within eight days of the expiration of the deadline for purchasing the assets from another party or within a period determined by the public enforcement officer if the enforcement creditor makes it probable that the assets could not be purchased from another party.

The possibility of discontinuing the enforcement procedure

The enforcement procedure is discontinued if the enforcement creditor does not submit a proposal within the deadline for the enforcement debtor to undertake to pay the value of the item purchased on the other side, nor a proposal for the enforcement debtor to deposit with the public enforcement officer the necessary monetary amount for the enforcement creditor to purchase the asset elsewhere.

IV.11 Enforcement in reinstatement of employee to work

In the Republic of Serbia, the court has exclusive jurisdiction over enforcement for the reinstatement of an employee to work. The court will decide on the enforcement proposal and carry out the enforcement. For deciding on the enforcement proposal and conducting the enforcement of the obligation of the employer to reinstate the employee to work or to assign them to specific tasks, the court in whose jurisdiction the employer's headquarters are located is territorially competent.

Deadline for submission of enforcement proposals

An enforcement proposal cannot be submitted after 60 days have elapsed since the enforcement creditor acquired the right to submit the proposal.

Method of enforcement implementation

Enforcement for reinstatement of an employee to work or for their assignment to specific tasks is carried out by imposing a monetary fine on the employer and their responsible person, according to the provisions on imposing a monetary fine for undertaking an action that only the enforcement debtor can undertake. Imposition of the monetary fine ceases when the court determines that the employee has started working in appropriate positions or that this has been made possible for them despite their refusal to work, or that they have been assigned to tasks specified in the enforcement instrument.

Compensation for lost wages upon reinstatement of the employee to work

Enforcement Atlas

Upon the proposal of the enforcement creditor who requested reinstatement to work, the court may issue a decision that has the effect of an enforcement order obligating the employer to pay the enforcement creditor monthly amounts of wages that have matured from the finality of the judgment until the reinstatement of the enforcement creditor to work. Compensation for lost wages is determined in the amount that the enforcement creditor would have received if they had been working, including taxes and contributions paid from wages. A proposal for compensation for lost wages may be submitted together with the proposal for enforcement for reinstatement to work or later, until the conclusion of the enforcement procedure. The employer may propose to the court to annul the decision on compensation for lost wages if circumstances change after the decision is made.

If the court does not adopt or only partially adopts the proposal for compensation for lost wages, the enforcement creditor may seek the wages or their remainder in a civil procedure.

IV.12 Eviction

When the enforcement concerns real estate, territorial jurisdiction is always tied to the location of the real estate. Thus, in enforcement proceedings for eviction and surrender of real estate, the court in whose jurisdiction the real estate is located has exclusive territorial jurisdiction to decide on the enforcement proposal.

Enforcement Actions

Enforcement for eviction and surrender of real estate is carried out by evicting individuals and removing belongings from the real estate and surrendering the real estate to the enforcement creditor in possession, or solely surrendering the real estate to the enforcement creditor in possession if eviction of individuals or removal of belongings is not necessary, or solely by evicting individuals and removing belongings from the real estate already in the possession of the enforcement creditor. Enforcement actions will vary from case to case. The public enforcement officer is exclusively competent for conducting the enforcement. Enforcement begins after 30 days have elapsed since the enforcement debtor received the enforcement decision. In situations where minors and individuals requiring necessary accommodation are affected by eviction, the public enforcement officer will inform the guardianship authority at least eight days before commencing enforcement. In this case, the guardianship authority will promptly take all necessary measures within their jurisdiction and provide all necessary assistance during the enforcement. Upon the request of the public enforcement officer, the enforcement creditor is obliged to provide the necessary workforce and transportation. This request is communicated to the enforcement creditor at least eight days before commencing enforcement.

Removal of movable assets

Movable assets that have been removed are handed over to the enforcement debtor, or in his absence, to an adult member of his household or his authorized representative. If no one is present to whom the assets can be handed over or if someone is present but refuses to accept the assets, they

are handed over for safekeeping to another person or to the enforcement creditor at the expense of the enforcement debtor, and a record of this is made by the public enforcement officer. The public enforcement officer issues a conclusion informing the enforcement debtor that the movable assets have been handed over for safekeeping and about the storage costs, and specifies a deadline by which the enforcement debtor can reimburse the storage costs of the assets and then request their return. In the same conclusion, the enforcement debtor is warned that the assets will be sold after the expiration of a specified period, and that the storage and sale costs will be deducted from the sale price of the assets.

Sale of movable assets

If the enforcement debtor fails to reimburse the storage costs of the assets or does not request their return within a specified period, a decision is made to sell the assets on behalf of the enforcement debtor. The portion of the sale price remaining after settling the storage and sale costs of the assets is deposited in favour of the enforcement debtor with the public enforcement officer. The sale of the assets is conducted in accordance with the rules for enforcement to satisfy monetary claims against movable property. If the movable assets could not be sold at second public auction, the public enforcement officer will transfer them to a social welfare institution, after obtaining the opinion of the ministry responsible for social welfare. The enforcement creditor may request, either in the enforcement proposal or later, until the completion of the enforcement procedure, that the court or the public enforcement officer determine that the costs of the enforcement procedure be collected by selling the movable assets of the enforcement debtor that need to be removed from the immovable property. Enforcement in this case is carried out according to the rules for enforcement to satisfy monetary claims against movable property.

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

Enforcement of decision on partition of co-owned property

For deciding on the proposal for enforcement for the partition of property with co-owners, the court in whose jurisdiction the property is located is territorially competent. Physical partition of the property is conducted by the public enforcement officer. They summon all participants in the enforcement procedure to attend the partition.

Partition by Sale of Property

If, according to the enforcement instrument, the property is to be sold for the purpose of partition, the provisions on enforcement to satisfy monetary claims against immovable or movable property are applied accordingly, unless the parties agree otherwise on specific issues. The enforcement debtor may purchase the property, and in the sale procedure, they are not required to provide security. In the procedure of partition by sale of immovable or movable property, the provisions on satisfaction of monetary claims by transferring the property into the ownership of the enforcement creditor are not applied.

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The costs of the enforcement procedure are borne by all co-owners, proportionate to their share in the property. A co-owner who has caused specific costs to another co-owner is obligated to reimburse them.

Enforcement of acts, omissions, or sufferance

In the Republic of Serbia, when enforcing actions, omissions, or sufferance, the court in whose jurisdiction the action, omission, or sufferance is to be performed is exclusively competent. This applies to deciding on the proposal for enforcement and carrying out the enforcement. If the enforcement involves actions that only the debtor can undertake, as well as deciding on the proposal and implementing the enforcement for actions that only the debtor can undertake, abstaining from certain actions (omission), or suffering certain actions, the court in whose jurisdiction the debtor is required to fulfil their obligation is territorially competent.

Actions that can be undertaken by another person

For deciding on the proposal for enforcement for actions that can be undertaken by another person, the court in whose jurisdiction the debtor is required to fulfil their obligation is territorially competent. For implementing the enforcement for actions that can be undertaken by another person, only the public enforcement officer is competent. If the action can be undertaken by another person, not just the debtor, the enforcement creditor is authorized in the enforcement decision to undertake the action themselves within a specified period and at the expense of the debtor or to entrust it to another person. The enforcement procedure is suspended if the enforcement creditor or another person fails to undertake the action within the period specified in the enforcement order.

Advance payment of action costs

Upon the enforcement creditor's request, the public enforcement officer may issue a conclusion requiring the debtor to advance the amount necessary to cover the costs of the action (conclusion on the advance payment of costs). This conclusion also specifies the deadline for undertaking the action, which starts from the advance payment of costs. The public enforcement officer enforces the conclusion on the advance payment of costs ex officio. The enforcement procedure is terminated if the enforcement creditor or another person entrusted with the action fails to undertake the action within the deadline specified in the conclusion on the advance payment of costs.

The final costs of the action are determined by the public enforcement officer upon the proposal of a party, against which an objection can be lodged. If the costs advanced by the debtor exceed the amount paid for the costs of the action and the enforcement procedure, the public enforcement officer, upon the debtor's request, returns the difference to the debtor if available. If not available, the public enforcement officer issues a conclusion obligating the enforcement creditor to return the difference to the debtor within a specified period. The rules on the decision on the advance payment of costs apply mutatis mutandis to this decision.

Actions that can only be undertaken by the debtor

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When the action can only be undertaken by the debtor, the enforcement order specifies a reasonable deadline for the action, and a monetary fine is imposed on the debtor if the action is not undertaken within the deadline, after which the court, ex officio, issues a decision on the enforcement of the monetary fine. Simultaneously, and upon the enforcement creditor's request, the court issues a new decision specifying a new reasonable deadline and imposing a new monetary fine on the debtor, higher than the previous one if the action is not undertaken within the deadline. If the debtor misses the deadline again, the court, ex officio, issues a decision on the enforcement of the monetary fine. This process continues until the debtor undertakes the action. If the action that can only be undertaken by the debtor does not depend solely on their will (e.g., creating certain works of art, etc.), the enforcement creditor cannot demand enforcement of the action, but only compensation for damages. Objection is allowed against the decision determining the new reasonable deadline and imposing the new monetary fine, as well as against the decision on the enforcement of the monetary fine.

Omission and sufferance

If the debtor behaves contrary to the obligation in the enforcement document to refrain from a certain action (omission) or to endure a certain action, the enforcement decision orders them to act in accordance with the obligation and imposes a monetary fine if they continue to behave contrary to the obligation. If, despite this, the debtor continues to behave contrary to the obligation, the court, upon the enforcement creditor's request, issues a decision on the enforcement of a monetary fine, by a new decision imposing a new monetary fine on the debtor, higher than the previous one, if they continue to behave contrary to the obligation. Upon the enforcement creditor's request, the court again issues a decision on the enforcement of a monetary fine and, by a new decision, imposes a new monetary fine on the debtor, higher than the previous one, if they repeat the behaviour that is contrary to the obligation. This process repeats until the debtor complies with the obligation. Objection is allowed against the decision imposing a new monetary fine on the debtor and against the decision on the enforcement of the monetary fine.

Enforcement for reinstatement of previous condition

If the conduct of the enforcement debtor, which is contrary to the obligation in the enforcement document (in terms of omission or sufferance, etc.), causes a change from the state that existed at the time of the enforcement document, which is not in line with the rights of the enforcement creditor, the court, upon the enforcement creditor's request, issues a decision authorizing the enforcement creditor to reinstate the previous condition either by themselves or with the assistance of another person, at the expense and risk of the debtor.

Repeated Trespassing

If the debtor voluntarily fulfils the obligation from the enforcement document issued in the proceedings due to trespassing, or if enforcement has been carried out based on it, and then repeats the trespassing, which essentially does not differ from the previous one, upon the motion of the enforcement creditor and based on the same enforcement document, a new enforcement decision is

made ordering the return of the property to the possession of the enforcement creditor, or imposing a fine according to the rules of breach of the obligation of omission on the debtor. A motion for enforcement can be filed within 30 days from the day of learning about the repeated trespassing, but no later than one year from the repeated trespassing. An objection is permitted against the decision imposing a fine on the debtor.

It is also important to note that the enforcement in these situations does not exclude the right of the enforcement creditor to claim damages in civil proceedings arising from the fact that the debtor violated the obligation to undertake, refrain from, or suffer an action.

IV.14 Sequestration of goods

Sequestration of goods is, as previously mentioned, possible under the Law on Enforcement and Security when enforcement is carried out on movable property of the debtor. In the case of enforcement on movable property, the public enforcement officer primarily inventories the movable assets and typically assesses their value in the same decision. The inventoried items are marked, and the debtor cannot dispose of the inventoried assets.

The creditor primarily has the right to acquire a pledge right on the inventoried movable property as security. However, the Law on Enforcement and Security also provides for the possibility of handing over the movable property to the enforcement creditor for safekeeping. Additionally, movable property can be entrusted to another person. According to Article 229 of the Law on Enforcement and Security, movable property can be left in the custody of the enforcement debtor, the enforcement creditor, or another person who already has possession of the property. Cash, valuable papers, and jewelry are kept in the custody of the public enforcement officer or a person conducting sales commission services. Other high-value items suitable for safekeeping are also deposited. Furthermore, Article 230 of the Law on Enforcement and Security provides for the possibility of changing the custodian of inventoried goods. Upon the motion of the enforcement creditor, the public enforcement officer may seize the goods from the enforcement debtor and entrust them to the enforcement creditor or another person designated by the enforcement creditor for safekeeping. The enforcement creditor can submit this motion before the decision on the allocation of the goods is made. When the enforcement creditor submits a proposal for the goods to be handed over to them or a third party designated by them for safekeeping, the enforcement creditor initially bears the costs of storing the goods (or the person they have designated), and the enforcement debtor reimburses the costs. In this situation, the enforcement creditor bears the risk of loss or damage to the goods, and it will be considered that the enforcement creditor has been satisfied up to the value of the lost or damaged property (these rules apply even if the goods are entrusted to the enforcement creditor for safekeeping, or to a person designated by the enforcement creditor).

The enforcement creditor does not bear the risk of loss or damage to the goods if the consequence is force majeure or an accident.

IV.15 Enforcement of foreign enforceable documents from Non EU States

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In 1982 former Yugoslavia has passed the Law on resolving conflict of laws with regulations of other states (hereinafter: Serbian PILA). That law is still in force in Republic of Serbia. There are special provisions contained in this law dealing with recognition and enforcement of foreign judgments.

Decision passed by a foreign court shall produce the same effects in Republic of Serbia if it has been recognized by the Serbian court. Decision of the foreign court shall also include settlement that has been concluded before the foreign court. Decision passed by the foreign state organ shall be treated in the same way as the foreign court decision or settlement concluded before foreign court if it regulates family, property and other civil law relations containing foreign element (Article 86 of PILA). A party seeking recognition has to submit the decision of a foreign court accompanied by certificate confirming that this decision has become final following the rules of the state whose court has passed the decision (Article 87 PILA).

Serbian court shall reject request for recognition if the defendant hasn't been given a possibility to participate in proceedings due to illegalities and irregularities in the proceedings before the foreign court. This ground for refusal of recognition shall be monitored only if the defendant files an objection in that regard. It shall be considered that defendant hasn't received the opportunity to defend himself/herself if a lawsuit or other legal act instituting proceedings wasn't served in person or if personal service of this document hasn't even been tried unless he/she has commences contesting the subject-matter of the case (Article 88 PILA).

Decision of foreign court shall not be recognized if the Serbian court or other organ had exclusive jurisdiction to decide the matter. If defendant request recognition of decision rendered in matters concerning divorce, annulment or existence of marriage or if the plaintiff requests recognition of that kind of decision and defendant doesn't object, Serbian court shall uphold the request for recognition (Article 89 PILA).

Serbian court shall reject recognition of foreign court decision if there is already final decision of Serbian court or some other organ on the same matter or if there is decision of the foreign court on the same matter that has already been recognized by Serbian court. The proceedings for recognition of foreign court decision shall be stayed if litigation on the same matter and between the same parties has started earlier before Serbian court. The proceedings for recognition shall be stayed until the litigation between the same parties and on the same matter has been finally decided (Article 90 PILA). Foreign court decision shall not be recognized if its effects contradict with public policy of Republic of Serbia (Article 91 PILA).

Reciprocity is also condition for recognizing decisions of foreign courts. Lack of reciprocity shall not prevent recognition of foreign court decision rendered in disputes concerning marriage, establishing and contesting paternity and maternity relations and when the recognition has been requested by Serbian national. The existence of reciprocity shall be assumed which means that a party contesting the existence of reciprocity has to prove the lack of it . If there is no certainty regarding reciprocity explanation may be demanded from Ministry of Justice (Article 92 PILA). There are special provisions dealing with recognition of foreign court decisions related to personal status (Art.93–95), but these provisions are irrelevant for this analysis.

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All these provision of Serbian PILA shall be applied if a plaintiff requests enforcement of foreign court decision. In that case foreign court decision must be accompanied by certificate of enforceability (Article 96 PILA).

Enforcement of foreign enforcement title – Law on Enforcement and Security contains only one article dealing with enforcement of foreign enforcement title. According to the Article 46, paragraph 1 foreign enforcement title shall be enforced in the same manner as domestic enforcement title if it relates to civil claim and if it has been recognized before Serbian court. That is one possibility for enforcement of foreign enforcement title. It means that enforcement creditor would first have to obtain recognition of foreign enforcement title in special proceedings and if Serbian court has recognized that title, enforcement creditor would be able to file motion to enforce. In that case recognition of foreign enforcement title is conducted in non-contentious proceedings. When the court accepts request for recognition, motion to enforce may be submitted.

The other option would be to file motion to enforce based on foreign enforcement title that hasn't been previously recognized before domestic court. The proceedings is adversarial which means that motion to enforce has to be served to the opposing party and he/she has the right to challenge it. In that case the court competent to decide upon motion to enforce has to establish whether the conditions for recognition of foreign enforcement title have been met. If the court finds that foreign enforcement title can be recognized and all procedural and material requirements are fulfilled, the court shall issue enforcement order. It shall decide on conditions for recognition of foreign enforcement title as preliminary question. In that situation enforcement order may be also challenged because the reasons for recognition of foreign enforcement title haven't been met.

Law on organization of courts determines jurisdiction for recognition and enforcement of foreign judgments. Article 23, paragraph 3 of that Law designates higher courts as courts competent to decide upon motion for recognition and enforcement of foreign court decisions and arbitral awards, unless there is established competence of some other court. Article 25, paragraph 2 provides that commercial court shall be competent for recognition of foreign court decisions and arbitral awards rendered between commercial entities.

Enforcement based on foreign authentic document – Enforcement order for collection of money claim may be issued upon authentic document. The exhaustive list of authentic documents is contained in Article 52, paragraph 2 of the Law on Enforcement and Security. Bill of exchange and invoice issued by a foreign person shall also represent authentic documents. It means that Serbian court shall issue enforcement order based on motion to enforce accompanied by bill of exchange or authentic document issued by foreign person if all requirements of procedural and substantive nature have been met.

Bilateral agreements between Serbia and other states in Western Balkans

Bilateral agreement between Serbia and Montenegro

In order to promote confidence and cooperation and to achieve higher level of protection of their citizens Serbia and Montenegro have concluded Agreement on legal assistance in civil and criminal

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matters in 2009. In providing legal assistance the courts and other organs of two states shall communicate through Ministry of Justice.

Special chapter deals with recognition and enforcement of court decisions and arbitral awards. Article 26 provides that contracting state shall recognize and enforce the following decisions: 1) court decisions in civil matters; 2) court decisions in criminal matters but only the part of decision dealing with civil law claims. The notion of court decision shall also include settlement concluded before the court as well as the decision of other state organ that has the same effect as court decision or court settlement. It is necessary that decision of other state organ relates to civil law claims.

The decisions listed in Article 26 of Agreement shall be recognized and enforced if the following conditions have been met: 1) the decision has become final and enforceable according to the law of contracting state in which it has been rendered; 2) there is no exclusive jurisdiction of the court or other state organ of contracting state in which the recognition and enforcement is being requested; 3) the party against which the recognition and enforcement is being requested has been timely and properly served and notified about the proceedings and if he/she has been properly represented in case he/she lacked procedural capacity; 4) in the contracting state in which recognition and enforcement is being requested there is no previous domestic final decision on the same matter and between the same parties or foreign final decision on the same matter and between the same parties that has been previously recognized; 5) there is no previously instituted civil proceedings involving same matter and same parties before the court of contracting state in which recognition and enforcement is being requested; 6) recognition and enforcement doesn't violate public policy of the contracting state in which recognition is being requested (Article 27).

Court decisions related to marriage disputes and the issues of establishing and challenging paternity and maternity and decisions concerned with personal status of nationals of either contracting state shall be recognized without checking the conditions listed in Article 27 of the Agreement if these decisions don't violate relevant laws and regulations of contracting state in which recognition is being requested. Court decisions of one contracting state dealing with personal status of nationals of a third country shall be recognized in other contracting state only if the conditions for recognition according to the law of a third country have been met (Article 28).

Contracting state shall recognize and enforce arbitral awards and settlements if they relate to commercial issues. Recognition and enforcement shall be rejected in the following situations: 1) arbitral award hasn't been based on the written agreement establishing competences of arbitration tribunal that has passed the award; 2) arbitration agreement is not valid according to the applicable law determined by the parties or by law of contracting state in which recognition and enforcement is being requested, 3) composition of arbitration tribunal and proceedings that has been conducted are in violation of arbitration agreement; 4) arbitration tribunal has overstepped its powers set by arbitration agreement; 5) arbitral award has been quashed or dismissed in the contracting state in which it has been passed. If arbitration tribunal has overstepped its powers, there is a possibility of partial recognition of arbitral award if that part is not affected by this violation (Article 29).

Motion for recognition and enforcement of foreign court decision or arbitral award may be filed to the competent court of contracting state in which recognition and enforcement is being requested or to the court of contracting state in which decision has been passed in which case it shall be served in

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accordance with this agreement. A motion may be filed by any person that has legal interest in recognition and enforcement.

The following documents have to be submitted: 1) decision or court settlement in original or certified copy together with certificates of finality and enforceability, 2) declaration that a party against whom recognition and enforcement is being requested has been properly served and notified about the proceedings and that he/she had adequate legal representation in case he/she lacked procedural capacity.

Motion for recognition and enforcement of arbitral award has to be accompanied by following documents: 1) original or certified copy of arbitral award or settlement; 2) original or certified copy of arbitration agreement (Article 30).

The proceedings for recognition and enforcement shall be conducted in accordance with the laws of contracting state in which recognition and enforcement is being requested. The court that has the competence to decide upon motion for recognition and enforcement shall be limited to determination of conditions under Art. 27–30 of this Agreement. The application of provisions of this agreement shall not affect the relevant regulations dealing with transfer of money and other items obtained by enforcement (Article 31).

Bilateral Agreement between Serbia and North Macedonia

Agreement on legal assistance in civil and criminal matters between Serbia and North Macedonia has been signed in 2011. In this agreement there is only one article dealing with recognition and enforcement of court decisions and arbitral awards. Article 24 of the Agreement prescribes that procedure for recognition and enforcement of court decisions shall be conducted in accordance with national law. That means that judgment passed by the Serbian court shall be recognized and enforced in North Macedonia if the conditions determined by Macedonian PILA have been met. Judgment rendered by the court in North Macedonia shall be recognized and enforced in Serbia if the conditions under Serbian PILA have been met.

Legal cooperation between Serbia and Albania

So far, there is no bilateral agreement on legal assistance in civil and criminal matters between Serbia and Albania.

PART V ENFORCEMENT COSTS

V.1 The costs of enforcement

The costs of enforcement procedure also include the costs of public enforcement officers. According to the Article 470 of Law on Enforcement and Security public enforcement officer is entitled to remuneration for his work and to reimbursement of expenses in accordance with the Law and Regulation of fees which is enacted by Minister of Justice.

Costs of Procedure

The fundamental rules concerning the costs of procedure are governed by the Law on Enforcement and Security (LES) (Article 33). The method of fee collection is extensively regulated by the Public Enforcement Officers Tariff.

The LES stipulates that the costs of the enforcement procedure are initially borne by the enforcement creditor who is required to advance the costs of the enforcement procedure to the court, or public enforcement officer, within the amount and timeframe they specify. The public enforcement officer determines the advance payment according to the Public Enforcement Officer Tariff. If the enforcement creditor fails to make the advance payment within the stipulated timeframe, the enforcement procedure is suspended. Ultimately, the costs of the procedure are borne by the enforcement debtor. In cases where the procedure is initiated ex officio, the court advances the costs from its own funds, which are then reimbursed by the enforcement debtor. When the Law on Enforcement and Security mandates the copying of the case files, copying costs are considered part of the procedure costs.

The enforcement creditor is not obliged to deposit an advance payment if they are exempt from paying court fees, in which case the costs of the procedure are borne by the enforcement debtor. These rules are prescribed by the Law on Court Fees ("Official Gazette of the Republic of Serbia", No. 28/1994, 53/1995, 16/997, 34/2001 - other law, 9/2002, 29/2004, 61/2005, 116/2008 - other law, 31/2009, 101/2011, 93/2012, 93/2014, 106/2015, 95/2018).

There are two situations where the enforcement creditor is exempt from paying court fees, one where it is exempted by law, and the other where it may be exempted by a court decision if the court determines that the conditions prescribed by the Law are met in each specific case. These rules are prescribed by the provisions of Article 9 and Article 10 of the Law on Court Fees.

- [Cases where the enforcement creditor is exempt from paying fees by law](#)

The Republic of Serbia, state bodies and special organizations, autonomous province bodies and local self-government units, Red Cross organizations, as well as supported individuals in proceedings

related to legal maintenance and individuals requesting payment of minimum wages are exempt from paying fees.

A foreign state is exempt from paying fees if provided for by an international agreement or on the condition of reciprocity. In case of doubt about the existence of reciprocity, the opinion is provided by the Ministry of Justice.

- [Cases where the enforcement creditor may be exempted from paying fees by a court decision](#)

The court may exempt the fee payer from paying the fee if, by paying the fee, considering the amount of funds from which the fee payer and members of their household are supported, those funds would be reduced to an extent that would jeopardize their social security. The court decides upon the proposal of the fee payer. Before deciding, the court will assess all circumstances, especially considering the relevant value for fee payment, the total income of the fee payer and members of their household, and the number of persons supported by the fee payer.

[Decision on Procedure Costs](#)

The enforcement debtor is obliged, upon the request of the enforcement creditor, to reimburse the costs incurred by the enforcement creditor for conducting the enforcement procedure or security procedure. An enforcement creditor who, by submitting multiple proposals for enforcement against the same enforcement debtor, requested separate settlement of multiple claims that could have been settled in the same enforcement procedure, is entitled to reimbursement only of those costs that would have been incurred if only one proposal for enforcement had been submitted for the settlement of those claims. This rule applies even when the enforcement creditor, by submitting multiple proposals for enforcement against the same enforcement debtor, requested full or partial settlement of the principal of one claim, interest, or procedural costs. The enforcement creditor is obliged to reimburse the enforcement debtor for costs unreasonably caused to him. A participant in the procedure has the right to costs for actions taken to protect their rights and is obliged to reimburse costs unreasonably caused by their actions.

[Deadline for Submitting Requests for Reimbursement of Costs](#)

Reimbursement of procedure costs may be requested no later than eight days from the conclusion of the enforcement procedure; otherwise, the costs are not recognized. The procedure costs are finally determined by a decision made ex officio, upon the proposal of a party or participant in the procedure. The decision determining the procedure costs is enforced against the party or participant in the procedure, in the same procedure in which it was issued. The decision determining the procedure costs has the same effect as an enforcement order. Even in cases where the enforcement procedure is suspended due to non-payment of advances, a decision on the costs incurred will be made. Objections are allowed against the decision on reimbursement of procedure costs.

[Public Enforcement Officer Tariff](#)

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The costs of the enforcement procedure are regulated by a bylaw issued by the minister - the Public Enforcement Officer Tariff.

The public enforcement officer is entitled to remuneration for work and reimbursement for actual costs incurred in the enforcement procedure and security procedure, in the amount and manner prescribed by the tariff. These reimbursements are advanced to the public enforcement officer by the enforcement creditor and are ultimately borne by the enforcement debtor.

Remuneration for Work

The remuneration for work of the public enforcement officer consists of:

1. Remuneration for preparing, conducting, and archiving files.
2. Remuneration for taking individual actions.
3. Remuneration for the successful implementation of the enforcement procedure.

Remuneration for the work of the public enforcement officer is determined by multiplying the number of points by the value of the point and increasing it by value-added tax (hereinafter: VAT), if the public enforcement officer is liable to pay VAT in accordance with the law.

The value of the point is 150 dinars without VAT (approximately around 1.28 euros).

Advance Payment

The enforcement creditor is obliged to pay an advance payment to the public enforcement officer, consisting of remuneration for preparation, conducting, and archiving of files, remuneration for taking individual actions, and reimbursement for actual costs incurred in the enforcement procedure or security procedure. The amount of the advance payment is determined by the public enforcement officer with a reasoned conclusion. The enforcement creditor must pay the advance payment to the public enforcement officer within 15 days from the date of receipt of the conclusion on the advance payment, to a separate account for payment of remuneration for work and reimbursement of costs of the public enforcement officer, otherwise the procedure will be terminated. In the decision to terminate the procedure due to non-payment of advances, the public enforcement officer assesses the remuneration for work that the enforcement creditor is obliged to pay, consisting of remuneration for issuing the conclusion on the advance payment, conclusion on termination of the procedure, and delivery to the enforcement creditor. The public enforcement officer may issue multiple conclusions on the advance payment, depending on changes in the instruments and subject of enforcement or security, or other justified circumstances.

Transfer of Advance Payment

At the request of the enforcement creditor, the public enforcement officer transfers the advanced remuneration for individual actions not undertaken and the actual costs not incurred, to another public enforcement officer, no later than eight days from the date when the conditions for transfer are met. When, during the enforcement procedure or security procedure, the enforcement creditor appoints another public enforcement officer to continue the procedure instead of the previously

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designated one, the initially designated public enforcement officer immediately transfers to the new public enforcement officer the part of the advance payment related to the individual actions not undertaken and the actual costs not incurred by him and retains the rest. This rule also applies in cases of temporary assumption of the activities by another public enforcement officer.

Exclusion of Public Enforcement Officer

If the court accepts a request for the exclusion of the public enforcement officer, the excluded public enforcement officer is obliged to transfer the entire advance payment he received to another public enforcement officer appointed by the enforcement creditor to continue the procedure, immediately.

Exception of Public Enforcement Officer

If the court accepts a request for the exception of the public enforcement officer, he retains the advance payment he received for preparation, conducting, and archiving of files, as well as for individual actions undertaken and actual costs incurred, until the request for exclusion is submitted. The remaining advance payment is immediately transferred to another public enforcement officer appointed by the enforcement creditor to continue the procedure. If the enforcement creditor does not appoint a public enforcement officer to continue the procedure, and the procedure is terminated as a result, the transfer is made in favour of the enforcement creditor.

Actions Undertaken by Public Enforcement Officer from Another Area

The enforcement creditor pays the advance payment to the public enforcement officer who undertakes actions outside the area for which he is appointed, through another public enforcement officer from another area, and the public enforcement officer further pays the advance payment to the account of the public enforcement officer from another area.

Compensation for Preparation, Conducting, and Archiving of Case Files

The amount of compensation for preparation, conducting, and archiving of case files for the enforcement of monetary claims is determined according to the value of the main claim that needs to be enforced.

Court costs, procedural costs, and ancillary claims are taken into account only if they themselves are the subject of the claim that needs to be enforced. The amount of compensation for preparation, conducting, and archiving of case files for the enforcement of non-monetary claims is 95 points, unless a higher value of the dispute subject is indicated in the enforcement document, in which case that value of the dispute subject is taken as the basis for determining the compensation for preparation, conducting, and archiving of case files.

The compensation for preparation, conducting, and archiving of case files cannot exceed 200 points when the enforcement is conducted on the enforcement account of the budget, or through which an indirect beneficiary of budget funds operates.

Compensation For Success

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The enforcement officer is entitled to compensation for the success of the enforcement procedure or security procedure based on the value of the claim being satisfied, realized, or secured (this amount does not include the enforcement costs incurred by the enforcement officer). When the claim is only partially satisfied, realized, or secured, the compensation for the success of the enforcement procedure or security procedure is determined and charged proportionally to the value of the claim being satisfied, realized, or secured.

The amount of compensation for the success of the enforcement procedure for the satisfaction of a monetary claim is determined based on the amount of the claim collected. The compensation for the success of the enforcement procedure for the realization of a non-monetary claim amounts to 335 points unless a higher value of the subject of dispute is indicated in the enforcement document, in which case the value of the subject of dispute is taken as the basis for determining the compensation for the success of the enforcement procedure.

The compensation for the success of the enforcement procedure for the division through the sale of real estate is determined in the same way as when the enforcement is conducted through the sale of real estate to satisfy a monetary claim.

The compensation for the success of the enforcement procedure for the vacation and surrender of immovable property amounts to 670 points, unless a higher value of the subject of dispute is indicated in the enforcement document, in which case the value of the subject of dispute is taken as the basis for determining the compensation for the success of the enforcement procedure.

The compensation for the success of the enforcement procedure conducted for the eviction of the enforcement debtor or immediate occupant of the real estate after its sale amounts to 335 points.

Limitations

The compensation for the success of the enforcement procedure cannot exceed 415 points when the enforcement is carried out for the satisfaction of a monetary claim through salary and other permanent financial benefits. The compensation for the success of the enforcement procedure cannot exceed 200 points when the enforcement is conducted through the enforcement account of the budget, as well as through an account through which an indirect beneficiary of budget funds operates.

The compensation for the success of the enforcement procedure is reduced:

- by 60% when the claim is fulfilled upon delivery of the enforcement decision based on a credible document to the enforcement debtor, before the enforcement officer takes the first enforcement action,
- by 30% when the enforcement is conducted by transferring funds from the enforcement debtor's account.

If the enforcement debtor fulfills the claim after the submission of the enforcement proposal but before receiving the enforcement order, the enforcement officer is not entitled to compensation for the success of the enforcement procedure.

If the enforcement debtor voluntarily surrenders the real estate within 30 days from the date of delivery of the enforcement order, or within 30 days from the date of delivery of the decision on

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vacation and surrender of real estate, the enforcement officer is not entitled to compensation for the success of the enforcement procedure for vacation and surrender of real estate.

Actual Costs

Actual costs are the expenses incurred by the enforcement officer in carrying out the enforcement procedure or security procedure. Actual costs must be justified by appropriate evidence (invoices, transportation tickets, expense reports, etc.). For actions taken outside the office, the enforcement officer is entitled to reimbursement for actual transportation costs, as follows:

- For public transportation in local and intercity traffic, up to the price of public transportation,
- For the use of their own vehicle, up to 30% of the cost of the highest-quality gasoline per kilometer traveled.

Determination Of Work Fees

The fee for preparation, conduct, and archiving of case files in the voluntary settlement procedure of monetary claims before the initiation of enforcement proceedings amounts to 20% of the fee.

The fee for the success of the voluntary settlement procedure of monetary claims before the initiation of enforcement proceedings amounts to 50% of the fee.

When multiple enforcement creditors or multiple enforcement debtors are involved in the enforcement proceedings or security proceedings, the fee for work may be increased by 30% for each additional party, up to a maximum of 210% of the fee for the value of the largest principal claim.

For actions taken outside of regular working hours, the fee for work may be increased by 50% of the amount of the fee for individual actions.

For the storage of items subject to enforcement, the enforcement officer is entitled to compensation in the amount of 25 points for each commenced month.

The costs of a provisional representative appointed by the enforcement officer, upon the proposal of a party or ex officio, constitute costs of the enforcement proceedings. The provisional representative is obliged to submit a cost statement to the enforcement officer.

Calculation according to tables indicating how many points are assigned based on the value of the legal matter.

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Table 1.

The value determined in dinars	Compensation for preparation, management, and archiving of case files
Up to 6,000 (about 51,3 EUR)	8 points
From 6,000 to 12,000 (from 51,3 EUR to 102,6 EUR)	12 points
From 12.000 to 30.000 (from 102,6 EUR to 256,4 EUR)	20 points
From 30.000 to 120.000 (from 256,4 EUR to 1.025,6 EUR)	22 points, increased by 2% of the value of the main request exceeding the amount of 30,000
From 120.000 to 600.000 (from 1.025,6 EUR to 5.128,2 EUR)	45 points, increased by 1% of the value of the main request exceeding the amount of 120,000 dinars (1.025,6 EUR).
From 600.000 to 3.000.000 (from 5.128,2 EUR to 25.641,00 EUR)	95 points, increased by 0.5% of the value of the main request exceeding the amount of 600,000 dinars (5.128,2 EUR).
From 3.000.000 to 12.000.000 (from 25.641,00 EUR to 102.564,00 EUR)	200 points, increased by 0.2% of the value of the main request exceeding the amount of 3,000,000 dinars (25.641,00 EUR).
From 12.000.000 (from 102.564,00 EUR)	395 points, increased by 0.1% of the value of the main request exceeding the amount of 12,000,000 dinars (102.564,00 EUR) but not more than 250,000 dinars (2.137,00 EUR).

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Table 2.

Fee for individual actions	Amount
For successful personal service of the enforcement order to the enforcement debtor	7,5 points
Posting on the bulletin board or electronic bulletin board	2,5 points
Mailing to parties, participants in the proceedings, court, government authorities, legal entities, entrepreneurs, and holders of public authorizations	3,5 points
Obtaining data from government authorities, holders of public authorizations, other legal entities, and entrepreneurs that are necessary for the effective conduct of enforcement and security proceedings, only when such data is not available electronically.	10 points
Inspection of real estate and movable assets, public auctions (first and second), except for electronic public auctions, inventory of real estate in unregistered ownership, inventory of movable assets, seizure of chattel mortgages, seizure and delivery of movable assets, vacation and surrender of real estate, conducted physical partition, enforcement of acts that can be undertaken by another person, and other activities.	30% of the fee for preparation, management, and archiving of case files for each commenced hour, but not exceeding eight hours per day
Determination that the statement of intent has been made	5 points
For transferring funds from the special account of the public enforcement officer	2 points per transfer
For drafting enforcement orders, decisions rejecting or dismissing enforcement proposals, decisions on: third-party objections, requests for rectification of irregularities, requests for enforcement suspension, termination of proceedings, procedural costs, decisions from Article 48 of the LES, as well as for drafting preliminary conclusions, settlement conclusions, sale conclusions, and conclusions from Articles 66, 67, and 193 of the LES.	20% of the fee for preparing, managing, and archiving cases
For photocopying the case files	0.1 point per page
Issuing certificates and confirmations to the parties regarding the matters in which the public enforcement officer acts	5 points

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Table 3.

Value determined in dinars	Compensation for successful enforcement
to 6.000 (about 51,3 EUR)	8 points from the value of the collected amount of the claim
From 6.000 to 12.000 (from 51,3 EUR to 102,6 EUR)	12 points from the value of the collected amount of the claim
From 12.000 to 30.000 (from 102,6 EUR to 256,4 EUR)	20 points from the value of the collected amount of the claim
From 30.000 to 120.000 (from 256,4 EUR to 1.025,6 EUR)	22 points + 6% of the value of the collected amount of the claim exceeding 30,000 dinars (256,4 EUR)
From 120.000 to 600.000 (from 1.025,6 EUR to 5.128,2 EUR)	80 points + 5% of the value of the collected amount of the claim exceeding 120,000 dinars (1.025,6 EUR)
From 600.000 to 3.000.000 (from 5.128,2 EUR to 25.641,00 EUR)	335 points + 4% of the value of the collected amount of the claim exceeding 600,000 dinars (5.128,2 EUR)
From 3.000.000 to 12.000.000 (from 25.641,00 EUR to 102.564,00 EUR)	1200 points + 2% of the value of the collected amount of the claim exceeding 3,000,000 dinars (25.641,00 EUR)
From 12.000.000 (from 102.564,00 EUR)	3135 points + 1% of the value of the collected amount of the claim exceeding 12,000,000 dinars (102.564,00 EUR) up to a maximum of 2,000,000 dinars (17.094,00 EUR)

PART VI LINKS, LITERATURE AND SOURCES

LINKS, LITERATURE AND SOURCES

- “STRENGTHENING LEGAL FRAMEWORK FOR ENFORCEMENT AND ITS IMPLEMENTATION IN SERBIA” Analysis by Prof. dr Nikola Bodiroga, University of Belgrade, Faculty of Law, Ms. Ksenija Gavrić, Ministry of Justice, Republic of Serbia
- Law on Enforcement and Security
- Civil Procedure Code
- Law on Court Taxes
- Law on Organization of Courts
- Law on Resolving Conflict of Laws with Regulations of Other States - PILA
- The Rulebook on Supervision Over the Work of Public Enforcement officers
- Rulebook on Disciplinary Proceedings against Public Enforcement Officers
- The Rulebook on Number of PEA
- Rulebook on the Organization and Procedure of Electronic Public Auctions
- Ethic Code
- Public Enforcement Officers Tariff
- Information obtained from the Ministry of Justice

Links:

Chamber of Public Enforcement Officers - <https://komoraizvrsitelja.rs/>

Directory of Public Enforcement Officers - <https://komoraizvrsitelja.rs/imenik-javnih-izvrsitelja/>

eAuction Portal - <https://eaukcija.sud.rs/#/>

Ministry of Justice - <https://www.mpravde.gov.rs/>

Electronic Bulletin Board (Court) - <https://etabla.sud.rs/>

Business Registers Agency - <https://www.apr.gov.rs/>

Real Estate Cadastre - Public Access - <https://katastar.rgz.gov.rs/eKatastarPublic/PublicAccess.aspx>