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LAW ON ENFORCEMENT AND SECURITY INTEREST

("Off. Herald of RS", Nos. 106/2015, 106/2016 - authentic interpretation
and 113/2017 - authentic interpretation)

Part one BASIC PROVISIONS

Scope of the Law

Article 1

This Law regulates the procedure in which courts and public enforcement officers conduct the compulsory collection of enforceable creditors' claims based on enforceable and credible documents(enforcement proceedings), the procedure for putting a lien on claims and the status of public enforcement officers.

Meaning of Certain Terms

Article 2

The terms used in this Law have the following meaning:

- 1) "Claim" indicates the right of a judgment creditor to request from a judgment debtor certain consideration, acting, omission, or sufferance;
- 2) "Judgment creditor" indicates a person whose claim is satisfied in enforcement proceedings, or secured in a security interest proceedings;
- 3) "Judgment debtor" indicates a person from whom a claim is collected in enforcement proceedings, or secured in security interest proceedings;
- 4) "Party" indicates a judgment creditor or a judgment debtor;
- 5) "Participant in the proceedings" indicates a person who, in enforcement proceedings or security interest proceedings, while not being a party to the proceedings, exercises some of his rights or a legal interest;
- 6) "Third party" indicates a participant in the proceedings who claims to have a right pertaining to the subject of enforcement that prevents enforcement;
- 7) "Writ of execution" indicates a writ of a court whereby the motion for enforcement based on an enforceable document is adopted;
- 8) "Writ of execution based on a credible document" indicates a writ of a court, or of a public enforcement officer's decision whereby the motion for enforcement based on a credible document is adopted;

- 9) "Compulsory collection organization" indicates a special organizational unit of the National Bank of Serbia that, acting upon court or public enforcement officer's order, instructs the banks to transfer funds from the account of the enforcement debtor;
- 10) "Securities" indicates a written instrument by which its issuer undertakes to fulfill the obligation inscribed on that instrument to its legal holder;
- 11) "Financial instruments" indicates securities, money market instruments and other financial instruments in dematerialized form defined by the law governing the capital market and registered with the Central Securities Depository and Clearing House (hereinafter: Central Securities Depository);
- 12) "Authorized participant in the capital market" indicates an investment company (a broker-dealer company and an authorized bank) according to the law regulating the capital market licensed by the Securities Commission to perform investment services and activities.

Initiating and Conducting Enforcement Proceedings and Security Interest Proceedings

Article 3

Enforcement proceedings and security interest proceedings are initiated by a judgment creditor filing a motion for the enforcement based on enforceable or credible document or a motion for security interest, or *ex officio* only when so provided for by the law.

A court decides on the motion for enforcement based on enforceable or credible document and on the motion for security interest.

A public enforcement officer decides on the motion for enforcement on the basis of credible document for settling monetary claims arising from utility services and related activities.

The enforcement proceedings are conducted upon adoption of the writ on enforcement or on security interest.

Competence for Conducting Enforcement

Article 4

Court has exclusive jurisdiction for the enforcement of joint sale of real estate and movable property, acts, omissions or sufferance (Art. 359-367) and the enforcement of enforceable documents in connection with family relations and reinstatement of an employee.

Public enforcement officers has exclusive jurisdiction for the enforcement of other enforceable documents, writs of enforcement based on a credible document, writs on adopting the motion for counter-enforcement and writs on enforcement of writs on enforcement of the court-imposed penalties.

Provisions up to the Part Three of this Law, that only regulate the powers of public enforcement officers, and not of courts, only apply to powers of a court if a court has exclusive jurisdiction to conduct enforcement (stay of the proceedings, on multiple enforcement instruments and subjects of enforcement, amending and adding enforcement instruments and subjects, objection of a third party, postponing enforcement, discontinuance of the enforcement proceedings, etc.).

Formal Legality

Article 5

When deciding on the motion for enforcement, the court and the public enforcement officer are bound by the enforceable and credible document.

The court is not authorized to examine the legality and correctness of the enforceable document.

Subject-Matter Jurisdiction of Courts for Deciding on Enforcement or Security Interest Motion

Article 6

The ruling on enforcement or security interest motion is rendered by basic or commercial court in the first instance.

The decision on the appeal against the ruling of the basic or commercial court is rendered by a superior court or the Commercial Appellate Court, depending on which court passed the contested ruling.

General Territorial Jurisdiction for Deciding on Enforcement or Security Interest Motion

Article 7

The court in whose territory the enforcement debtor has permanent or temporary residence, i.e. registered headquarters, has general territorial jurisdiction for deciding on enforcement or security interest motions.

Territorial Jurisdiction if Enforcement or Security Interest Motion Specifies Multiple Instruments or Subjects of Enforcement or Security Interest

Article 8

If the motion for enforcement or security interest on a monetary claim specifies multiple instruments or subjects of enforcement or security interest, the court that has the jurisdiction to decide on the instrument of enforcement or security interest that is indicated first, has the territorial jurisdiction to decide on the enforcement motion, i.e. security interest motion.

If an immovable property is specified among other instruments or subjects, the court in whose territory the immovable property is located has the exclusive territorial jurisdiction to decide on the enforcement, i.e. security motion.

Territorial Jurisdiction of the Court for Ruling during the Implementation of Enforcement

Article 9

In the course of the enforcement carried out by the public enforcement officer, the court that rendered the writ of execution based on the enforceable or credible document, has the territorial jurisdiction to make rulings on imposing fines, rulings on replacing fines with imprisonment, rulings on a motion for disqualification of a public enforcement officers, and rulings on objections, except on the third party objection.

If the enforcement is effected by court, the exclusive territorial jurisdiction for ruling in the course of the enforcement implementation is vested in the court effecting the enforcement.

Territorial Jurisdiction of the Public Enforcement Officer

Article 10

Public enforcement officers enforce the writ of executions based on enforceable title or credible document and the rulings on preliminary or interim measure rendered by a court in whose territory he was appointed (territorial jurisdiction of the public enforcement officer).

He may undertake actions outside the territory of the court for which he was appointed, alone or through a public enforcement officer from another territory.

Prohibition of the Party's Motion for Delegation of the Territorial Jurisdiction of the Court

Article 11

Party's motion for delegation of territorial jurisdiction of the court is not permitted.

Composition of the Court

Article 12

In enforcement proceedings and security interest proceedings, single judge issues writs and adopt conclusions in the first instance.

A panel of three judges renders decisions on an objection or appeal.

A judicial assistant may undertake certain court actions in the course of enforcement or security interest proceedings.

Recusal of a Judge

Article 13

When the enforcement is effected by a public enforcement officer, a motion for recusal of the judge may be filed at the latest by the expiry of the term for ruling on the appeal against the writ issued on the motion for enforcement based on enforceable document, or of the term for objection or appeal in the process of deciding on the legality and correctness of the writ of execution based on a credible document.

When the enforcement is effected by a court, as well as in the security interest proceedings, the motion for disqualification of the judge may be filed before the completion of the enforcement proceedings, i.e. security interest proceedings.

Decision on the motion for recusal of the judge is rendered within five days from the receipt of the motion.

An objection may be filed against the ruling on dismissal or rejection of the motion for disqualification of the judge.

The motion for recusal of the judge does not stay the enforcement or security interest proceedings.

The motion for recusal of the court enforcement officer is not permitted.

Principle of Written and Oral Proceedings

Article 14

As a rule, the court and public enforcement officers take actions pursuant to the submissions and other written documents, but they also can hear a party or a participant in the proceedings outside the hearing, with the aim of clarifying certain issues or declaring on the party's motion.

A hearing is held in case of constituting the right of pledge on immovable property and movable assets pursuant to agreement between the parties (Art. 427-430), and may be held in the course of enforcement of the decisions relating to family issues (Article 371, paragraph 2) and in deciding on the motion for interim measure. An official memorandum on the course of the hearing may be drawn up instead of the minutes.

Absence from the hearing of the party or participant in the proceedings, or their failure to appear at

the examination, does not prevent further actions of the court or the public enforcement officer.

Deadlines and the Principle of Urgency

Article 15

Enforcement and security interest proceedings are urgent.

Stay of proceedings is not permitted in the enforcement and security interest proceedings.

Deadline for parties and other persons to undertake actions ordered by the court or the public enforcement officer may not exceed eight days, unless otherwise provided for by this Law.

The court and the public enforcement officer shall render decision upon a request or motion filed by the party or other person within eight days, and to expedite such decision within the next five business days, unless a shorter or a longer period is provided for by this Law.

Breach of Discipline

Article 16

Failure of the judge to act within the deadlines for rendering decisions set out by this Law constitutes a breach of discipline by the judge.

Ensuring Protection of the Right to a Trial within a Reasonable Time

Article 17

Failure of a judge at the first or the second instance court to act upon the objection or appeal within the time limits set out in this Law, is always taken into account in the procedure for the protection of the right to a trial within a reasonable time.

The presiding judge shall particularly observe this.

Order of Proceedings and Settlement

Article 18

Cases are processed according to the order of receipt, unless the nature of the claim or special circumstances requires departure, which shall be preceded by a written consent of the presiding judge.

Multiple enforcement creditors enforcing their monetary claims against the same enforcement debtor and against the same subject of enforcement are settled in the order of acquiring the right to settlement.

Prohibition of Disposal of Enforcement or Security Interest Subject

Article 19

Acts of legal or factual disposition of the subject of enforcement or security interest do not have legal effect from the moment when the enforcement debtor received the writ of execution based on enforceable or credible document, or the writ on security interest.

Settlement of a Single Creditor by Application of Different Laws against Mortgaged Immovable Property

Article 20

A creditor, whose mortgage agreement and pledge statement represent enforcement documents, has the right to choose: to be settled by application of the law regulating the mortgage or by application of this Law.

It is deemed that the creditor has chosen settlement by application of the law that regulates mortgage when the ruling is made on the entry of the mortgage sale annotation, and for the settlement by application of this Law when he files the motion for enforcement.

The court rejects the motion for enforcement filed after the ruling on the entry of the mortgage sale annotation.

The objection against the ruling on rejection of the motion is permitted.

Settlement of Multiple Creditors by Application of Different Laws against Mortgaged Immovable Property

Article 21

If different creditors are simultaneously conducting the settlement procedure by application of the law regulating the mortgage and by application of this Law, and the ruling on the entry of the mortgage sale annotation was made before the writ of execution, the settlement by application of the law regulating the mortgage has priority. In this case, the order of settlement of the enforcement creditor shall be determined according to the day when he acquired the right of settlement in the enforcement proceedings.

The enforcement proceedings are continued if the immovable property has not been sold in the process of settlement by application of the law regulating the mortgage.

If the writ of execution is rendered before the ruling on the entry of the mortgage sale annotation, the settlement by application of this Law has the priority, in which case the mortgage sale annotation loses its effect.

Enforcement against Property of a Foreign State

Article 22

Enforcement proceedings and security interest proceedings may not be carried out against the property of a foreign state or an international organization in the Republic of Serbia without prior written consent of the ministry in charge of foreign affairs, except if such foreign state or international organization has explicitly consented thereto.

Decisions in Enforcement Proceedings and Security Interest Proceedings

Article 23

The court and public enforcement officer issue writs and conclusions.

A writ is issued when deciding on the motion for enforcement or security interest, then on objection, appeal, and in other cases specified by this Law.

A writ of execution based on enforceable or credible document need not have reasons.

A conclusion is used to order undertaking of enforcement actions and to manage the enforcement proceedings.

Legal Remedies in Enforcement Proceedings

Article 24

Legal remedies in enforcement proceedings are the appeal and objection.

The appeal is used to contest the writ of the first instance court or the writ of the public enforcement officer, unless it is stipulated in this Law that the appeal is not permitted or that such writ is to be contested by objection.

The objection is filed against the writ on the motion for enforcement based on credible document, against other writs of the first instance court or public enforcement officer defined by this Law, and in the form of the third party objection (Article 108).

Only in case of objection of the third party (Article 110, paragraph 2) an objection is permitted against the writ issued on the objection to the writ, and the appeal only against the writ issued on the objection to the writ of execution based on a credible document.

A conclusion is not subject to objection or appeal. The objection or appeal filed against a conclusion is dismissed by a writ or conclusion which completes the enforcement proceedings.

Deadline for Appeal and Objection and Absence of Suspensive Effect of Appeal and Objection

Article 25

Appeal is filed within eight days from the serving of the writ.

Objection is filed within the same deadline, except for the third party objection.

The appeal and the objection stay the enforcement only if so provided by this Law.

Prohibition of Repealing of First Instance Ruling and Referral of Cases for Review

Article 26

When deciding on objections and appeals, the court may not repeal the first instance writ and refer the case for review.

Illicitness of Extraordinary Legal Remedies

Article 27

Writ issued on the appeal is final.

When writ may be contested exclusively by an objection, the writ issued on the objection is final.

A review or new proceedings is not permitted against the final ruling.

Reinstatement

Article 28

Reinstatement is permitted in case of a failure to comply with the deadline for objection or appeal in the proceedings of contesting the writ of execution based on a credible document.

The appeal is not permitted against the writ that adopts the reinstatement motion.

Objection is permitted against a writ on dismissal or rejection of the reinstatement motion.

Stay of Proceedings

Article 29

If enforcement proceeding is stayed by operation of law, the public enforcement officer, at the motion of a party, or *ex officio*, appoints a provisional representative of the party and continues the proceedings even before the reason for stay has been eliminated.

The above does not apply to the stay of proceedings caused by legal effects of a bankruptcy procedure.

Identification Information on Enforcement Debtor and Enforcement Creditor

Article 30

The following are identification information on enforcement debtor and enforcement creditor who is a natural person:

- 1) First name and family name and residence;
- 2) Date of birth and unique master citizen number.

The following are identification information on enforcement debtor and enforcement creditor who is a legal person:

- 1) Business name;
- 2) Registration number and tax identification number.

The following are identification information on enforcement debtor and enforcement creditor who is a foreign legal person:

- 1) Business name and registered headquarters;
- 2) Relevant identification number.

The following are identification information on enforcement debtor and enforcement creditor who is a sole trader or a natural person performing a business activity:

- 1) Business name or first name and family name;
- 2) Registration number and tax identification number.

Obligation to Provide Information

Article 31

At the request of the court or the public enforcement officer, state authorities, holders of public authorizations, other legal persons and sole traders shall deliver the following information on the enforcement debtor, free of charge:

- 1) First name and family name or business name;
- 2) Permanent or temporary residence address;
- 3) Date of birth;
- 4) Unique master citizen number;
- 5) Tax identification number;
- 6) Information on the amount of salary and other permanent monetary income and their payers and data on debt collection from salary or garnishment on wages and other permanent monetary income;
- 7) Numbers of accounts, savings deposits and deposits with banks, their balance and list of

transactions, and information on the garnishments thereof;

8) Information on payment accounts and electronic money at the providers of payment services and the electronic money issuers, balance and list of transactions on those accounts, i.e. in connection with electronic money, and the information on the garnishments thereof;

9) Financial instruments account numbers and their balances;

10) Information about stakes in companies or other participation in legal entities, and profit generated by the enforcement debtor on the basis thereof in the last year;

11) Data on immovable property on which or in relation to which the enforcement debtor has ownership rights;

12) Data from the records of registered motor vehicles and tow vehicles;

13) Data from the Aircraft Registry of the Republic of Serbia and the Aircraft Records of the Republic of Serbia, and the corresponding registry of vessels;

14) Data from the records of movable assets;

15) Information on the pension and health insurance;

16) Data from the registers of personal status;

17) Information on the life and property insurance;

18) Tax administration data on the tax returns for the last three years;

19) Identification data (Article 30) on the parties that have concluded a legal transaction, a copy of the legal transaction document, and if there is no document, information on the contents of a legal transaction or an action relating to:

a) Binding disposals, through which the enforcement debtor, by act or omission in the last year, disposed of his property in favor of other persons,

b) Binding disposals, through which the enforcement debtor, by act or omission in the last three years disposed of his property in favor of a spouse, civil union partner, lineal or collateral relative up to the fourth degree of consanguinity or in-law relative up to the fourth degree of consanguinity,

c) Gratuitous disposals in the last three years, except for the usual occasional gifts, prize gifts or gifts of gratitude, whose value is proportional to the financial capacity of the enforcement debtor.

In order to obtain the information, the public enforcement officer must present a writ of enforcement based on enforceable or credible document, or a writ of execution based on a credible document with the aim of settling claim arising from the utility services and related activities.

The court and the public enforcement officer may process the obtained information only with the aim of identifying the property of the enforcement debtor and implementing the enforcement.

The court and the public enforcement officer are entitled to receive from state authorities, holders of public authorizations, and other legal entities and entrepreneurs, other information necessary for efficient conduct of the enforcement proceedings, free of charge.

State authorities, holders of public authorizations, other legal entities and entrepreneurs shall deliver free of charge to the enforcement creditor who indicates a claim for whose settlement or securing he intends to take part in enforcement or security interest proceedings, and submits an enforceable document containing the claim, all information that they are required to deliver both, to the court and to the public enforcement officer, except for the data from the tax return for the last three years (paragraph 1, item 18 of this Article). The obligation to deliver information under the same conditions also exists with regard to the attorney as a proxy of the enforcement creditor. The enforcement creditor and enforcement creditor's attorney may use the obtained information only for the purposes of the enforcement proceedings, while the information on the legal transactions and actions (paragraph 1, item 19 of this Article) only for contesting legal actions of the enforcement debtor with the aim of enforcement implementation.

The information must be delivered within the term of eight days from the day of receipt of the delivery request.

Limitations of Duty to Provide Information

Article 32

The duty to provide information does not apply if such information is recorded in a public register that is available free of charge to the court, the public enforcement officer, the enforcement creditor, or an attorney as his proxy.

When the property of the enforcement debtor exceeds the value of the enforcement creditor's claim, a state authority, a holder of public authorities, other legal person and a sole trader shall inform the court, the public enforcement officer, the enforcement creditor or an attorney as his or her proxy, only of the fact that the enforcement debtor's property is sufficient for satisfaction of the enforcement creditor.

Costs of Proceedings

Article 33

The costs of the enforcement proceedings and security interest proceedings are borne beforehand by the enforcement creditor.

He shall make an advance payment of the costs of enforcement proceedings or security interest proceedings to the court or the public enforcement officer, in the manner, amount and the period determined by them. The public enforcement officer determines the advance payment according to the Public Enforcement Officers' Rate.

The enforcement creditor is not obliged to make advance payment if exempt from paying the court tax.

Enforcement proceedings or security proceedings are discontinued if the enforcement creditor fails to make the advance payment within the time limit determined by the court or the public enforcement officer.

The costs of proceedings initiated *ex officio* are advanced by the court from its own funds, and reimbursed by the enforcement debtor.

Where this Law stipulates the obligation to copy the case files, the cost of copying are included in the costs of the proceedings.

Deciding on Costs of Proceedings

Article 34

The enforcement debtor shall reimburse the enforcement creditor, at his request, for the costs incurred in conducting the enforcement proceedings, i.e. security proceedings.

The enforcement creditor shall reimburse the enforcement debtor for the unjustified costs he caused.

Reimbursement of costs of the proceedings is decided by a writ. At the request of a party, the court or the public enforcement officer adopt a conclusion on settlement of costs, in the same procedure in which they issued a writ on reimbursement of costs.

The motion for reimbursement of costs of the proceedings may be filed within the time limit of eight days from the day of completion of the enforcement proceedings or the security interest proceedings; otherwise the costs shall not be recognized.

Objection against the writ on reimbursement of costs is permitted.

Depositing Security

Article 35

When this Law stipulates depositing of the security, it shall be deposited in domestic or foreign currency into the public enforcement officer's deposit.

Exceptionally, with the consent of the opposing party, the security may be deposited in the form of a bank guarantee or securities, valuables or movable assets whose value is easily determined in the market, and which can be quickly and easily cashed.

The decision on depositing the security in the enforcement proceeding is rendered in the form of the public enforcement officer's conclusion, and in the security interest proceeding by the court.

The evidence of depositing the security is the basis for the acquisition of the right of pledge by registration in the Register of Pledges on Movable Property and Rights (hereinafter: the Pledge Register) or other public registers, at the request of the person in whose favor the security was ordered.

If the court, or the public enforcement officer issues a writ to award to the opposing party the compensation of damages or costs of the proceedings associated with the action for which the security was deposited, the same writ shall also stipulate, at such party's motion, that the damages or the costs of the proceedings shall be compensated from the deposited security. The objection against this writ is permitted.

Service on the Enforcement Debtor

Article 36

Service of process on the enforcement debtor, who is a legal person or a sole trader, is made to the address of the headquarters or a mailing address registered in the register of the Business Registers Agency or other public registry, and for natural person - to the address of permanent or temporary residence, as recorded with the authority keeping the records of identity documents.

If the service of process fails, the written notice shall be posted on the next business day on the bulletin board of the court which rendered the writ of execution based on the enforceable or credible document, and in case of the writ of execution based on the credible document, the service of process is repeated one more time after the expiry of the time limit of eight days from the previous service, and if the repeated service of process fails, the writ is posted on the court's bulletin board on the next business day.

The courier leaves in the mailbox of the enforcement debtor, or elsewhere at the enforcement debtor's address, a notice containing the personal name of the enforcement debtor, status in the proceedings, indication that the document shall be posted on the bulletin board of the court on the next business day, the name and address of that court, and a warning that after the expiry of the time limit of eight days from the day of posting of the document on the bulletin board of the court, the service is deemed to be complete.

Service of process is deemed to be completed after expiry of eight days from the day of posting of the document on the bulletin board of the court.

Provisions of this article shall apply *mutatis mutandis* to the service of process on the enforcement creditor and other participants in the proceedings.

Competence for Service of Process and Direct Service on the Public Enforcement Officer

Article 37

Acts of the court and the public enforcement officer and the documents of parties and other participants in the enforcement proceedings and security interest proceedings are served by the public enforcement officer, unless the court has exclusive jurisdiction for enforcement, in which case

the court performs the service of process.

The court through whose bulletin board the public enforcement officer serves acts and documents keeps special records of the time when the act or document were posted on the bulletin board and the time of their removal, and issues an official certificate to that effect to the public enforcement officer. The records shall contain a reference number of the court case and the case of the public enforcement officer and the first name and family name or the business name of the parties to the proceedings.

When public enforcement officer conducts enforcement, the submissions and other documents of the parties and other persons are served directly to him.

Fine for Contempt of Court, Public Enforcement Officer and Other Participant

Article 38

The court fines a party, participant in the proceedings or other person whose behavior is insulting to the court, the public enforcement officer, parties or other participants in the proceedings, even when the enforcement is carried out by the public enforcement officer.

The fine is imposed, contested and enforced under the conditions stipulated by this Law (Art. 131 and 132).

Mutatis Mutandis Application of the Law Regulating Civil Proceedings

Article 39

The law regulating civil proceedings shall apply *mutatis mutandis* to the enforcement proceedings and the security interest proceedings.

Part two GENERAL RULES OF ENFORCEMENT PROCEEDINGS

Chapter One ENFORCEABLE AND CREDIBLE DOCUMENT

1. Grounds for Rendering the Writ of Execution

Article 40

Writ of execution is rendered based on enforceable or credible document.

2. Enforceable Document

Types of Enforceable Documents

Article 41

The following are enforceable documents:

- 1) Enforceable judicial decision or court settlement, stating consideration, act, omission, or sufferance;
- 2) Final decision rendered in misdemeanor or administrative proceedings and settlement in administrative proceedings, stating entitlement to the collection of a payable, unless a specific law provides otherwise;
- 3) Extract from the Pledge Register and extract from Financial Leasing Register;
- 4) Mortgage contract and pledge statement;
- 5) Reorganization plan in bankruptcy procedure, confirmed by a court ruling;
- 6) Notary documents having the power of the enforcement document;
- 7) Agreement on the resolution of dispute through mediation, which fulfils the conditions stipulated by the law regulating mediation in dispute resolution;
- 8) Other document designated as enforcement document by law.

Mortgage contract and pledge statement are enforcement documents if executed or given in the form specified by the law regulating the mortgage, if they contain provisions stipulated by such law, and if they are recorded in the cadastre of immovable property as the executive extrajudicial mortgage.

Judicial and Administrative Decision and Settlement

Article 42

Judgment, writ and any other decision rendered in the proceedings before court, domestic arbitral tribunal and the Court of Honor of the Chamber of Commerce, are deemed to be the judicial decision, while a settlement concluded before a court, domestic arbitral tribunal or Court of Honor of the Chamber of Commerce is deemed to be the court settlement.

Writ or conclusion imposed in the administrative procedure are deemed to be the administrative decision, while a settlement concluded in administrative procedure is deemed to be the administrative settlement.

Enforceability of Judicial and Administrative Decision and Notary Public Document that has the power of Enforcement Document

Article 43

A judicial decision stating a consideration or act shall become enforceable if it has become final and if the time period for voluntary compliance has expired. The voluntary compliance period runs from the date on which the judicial decision is served on the enforcement debtor, unless otherwise provided for by law. A judicial decision stipulating a condition for compliance becomes enforceable upon effectuation of such condition.

A judicial decision stating omission or sufferance becomes enforceable when it becomes final, if not stipulated otherwise therein.

Enforceability of administrative decision is assessed according to the rules of administrative procedure, and enforceability of a notary public document that has the power of the enforcement document - according to the law regulating public notary services.

Writ of execution is also rendered when the judicial decision has not become final, or when administrative decision has not become final, if the law stipulates that an appeal or other legal remedy shall not stay their enforcement.

Certificate of Enforceability of Decision

Article 44

Certificate of enforceability establishes that the decision has become enforceable.

At the motion of a party, this certificate is issued by the court or other organ that issued an enforcement document in the first instance or a notary public by affixing the certificate to enforcement document.

Unfounded certificate of enforceability is repealed by a writ of the decree of the issuing court or other organ, or notary public at the motion of a party or *ex officio*.

Enforceability of Court and Administrative Settlement and Notary Public Settlement Record

Article 45

Court and administrative settlement, and notary public record on settlement become enforceable upon maturity of the claim stated in the settlement.

The maturity of the claim is proved by the settlement record or by an official or a legally certified document.

Provisions regulating enforceability of a judicial and administrative decision shall apply to the enforceability of settlement.

Enforcement of a Foreign Enforcement Document

Article 46

A foreign enforcement document is enforced in the same manner as a domestic enforcement document, if it is indicating a private legal claim and is recognized by a domestic court.

Enforcement creditor may file a motion for enforcement of a foreign enforcement document that has not been recognized by domestic court.

In this case, the court with the jurisdiction to render the writ of execution also decides on recognition of a foreign enforcement document as a preliminary issue.

Such writ of execution may be contested by appeal also due to noncompliance with legal requirements for recognition of a foreign enforcement document.

Suitability of Enforcement Document for Rendering the Writ of Execution

Article 47

Enforcement document is suitable for rendering the writ of execution if it contains the information on the enforcement creditor, the enforcement debtor, the subject of the enforcement, the type and scope of fulfillment of the obligation. If the enforcement document does not state a time period for voluntary compliance, it amounts to eight days from the delivery of the enforcement document to the enforcement debtor.

If the maturity of a claim cannot be established from an extract from the Pledge Register, the enforcement creditor provides a written proof that he granted additional time period to the

enforcement debtor for fulfillment of the obligation.

The writ of execution may be rendered when only a part of a judicial or administrative decision, or a settlement, or a notary public document has become enforceable, in relation to that part.

Transfer of Claim and Obligation

Article 48

Enforcement proceedings is also conducted on the motion and in favor of a person who has not been designated as the enforcement creditor in the enforceable or credible document, if such person submits an official or a legally certified document as evidence that the claim referred to in the enforceable or credible document has been transferred to him, and if such proof is not possible, if the transfer of claim is proven by an enforceable or a final court ruling in a civil, misdemeanor or administrative proceedings.

When the claim is transferred from the enforcement creditor to another person after rendering of the writ of execution based on enforceable or credible document, at the motion of the transferee who evidences the transfer by an official or a legally certified document, a conclusion shall be adopted to establish that the transferee has taken the place of the enforcement creditor.

Provisions of paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* also in the enforcement proceedings against a person who has not been designated as the enforcement debtor in the enforceable or credible document, as well as when after rendering the writ of execution based on enforceable or credible document the obligation of the enforcement debtor gets transferred to another party, the transferee of the obligation.

The transferee enters into the enforcement proceedings in the state in which such proceedings are at that time.

Conditional and Mutual Obligation

Article 49

When the obligation of the enforcement debtor depends on the prior or simultaneous fulfillment of the obligation of the enforcement creditor or on the occurrence of a condition, the writ of execution is rendered if the enforcement creditor provides a written statement that he has fulfilled or secured the fulfillment of his obligation or that the condition has occurred.

It is deemed that the enforcement creditor has fulfilled his obligation, or secured the fulfillment of his obligation, if he deposited the object of obligation with the court or the public enforcement officer, or if he took some other appropriate action to similar effect.

If the enforcement debtor indicates in the appeal against the writ of execution that the enforcement creditor failed to fulfill his obligation or failed to secure its fulfillment, or that the condition has not occurred, and the parties have disputed facts, the appeal is rejected if the enforcement creditor proves by virtue of an official or a legally certified document that he fulfilled or secured fulfillment of his obligation or that the condition has occurred.

If the appeal of the enforcement debtor is adopted, the enforcement creditor may commence a civil action in order to determine that he is authorized by the enforcement document to request the unconditional fulfillment of the obligation of the enforcement debtor.

Alternative Obligation at Discretion of Enforcement Debtor

Article 50

Where, according to enforcement document, the enforcement debtor is entitled to make a choice between multiple objects of his obligation, the enforcement creditor shall designate in the enforcement motion the one object to be used for settlement.

The enforcement debtor is entitled to make such choice until such time as the enforcement creditor

receives, either partly or in whole, the object he designated in the enforcement motion.

Optional Authority of Enforcement Debtor

Article 51

The enforcement debtor obliged by an enforcement document to fulfill a nonmonetary obligation, with an option to be excused from such obligation by paying a certain sum of money or taking a certain action designated in the enforcement document, may pay such sum or take such action up until the enforcement creditor receives a partial settlement of the non-monetary obligation.

3. Credible Document

Types of Credible Documents

Article 52

The writ of execution based on a credible document is rendered for settlement of a monetary claim.

The following are credible documents:

- 1) Promissory note or check issued by a domestic or foreign entity, with protest if necessary for establishment of the claim;
- 2) Extract from the Central Securities Depository of the balance of the account of the legal holder of bonds or money market instruments (treasury bills, treasury bonds and commercial papers) and the decision on their issue;
- 3) Invoice (bill) issued by a domestic or foreign entity, accompanied by bill of lading or other written proof that the enforcement debtor was notified of the obligation created;
- 4) Extract from company ledger as proof of the provision of utility or similar services;
- 5) Calculation or extract from company ledger regarding public media service tax claims;
- 6) Official document constituting an enforceable monetary obligation;
- 7) Bank guarantee;
- 8) Letter of credit;
- 9) Certified statement of the enforcement debtor authorizing the bank to transfer funds from his account into the account of the enforcement creditor;
- 10) Calculation of interest with proof of basis for maturity and the amount of claim;
- 11) Interim or final payment certificates with respect to construction works completed;
- 12) Calculation of the amount of fee and reimbursement of an attorney.

Suitability of Credible Document for Rendering Writ of Execution Based on Credible Document

Article 53

A credible document is suitable for rendering the writ of execution based on credible document if it contains information on the enforcement creditor, the enforcement debtor, and the subject, type, scope and maturity of the enforcement debtor's obligation.

If the maturity of an obligation cannot be established from the credible document, the enforcement creditor shall enclose with the credible document a written proof that he granted the enforcement debtor additional period for fulfillment of the obligation.

Chapter Two

INSTRUMENTS AND SUBJECT OF ENFORCEMENT

Instruments of Enforcement

Article 54

Actions used to settle a claim of an enforcement creditor are instruments of enforcement.

The following are instruments of enforcement for collecting a monetary claim: sale of the enforcement debtor's immovable property; sale of the enforcement debtor's movable assets; assignment of the enforcement debtor's monetary claim; transfer of the enforcement debtor's salary, transfer of the funds from the enforcement debtor's bank account; transfer of funds from the enforcement debtor's savings account or checking account, sale of the enforcement debtor's financial instruments, sale of the enforcement debtor's stake in companies and transfer of the enforcement debtor's claim to surrender or deliver movable assets or surrender the immovable property.

The following are instruments of enforcement for collecting a non-monetary claim: surrender of the enforcement debtor's movable assets; vacating and surrendering of the enforcement debtor's immovable property; acts, omissions or sufferance of the enforcement debtor; surrender of a child and enforcement of other rulings in family matters; reinstatement of an employee; the division of joint property, and obtaining a statement of will.

Enforcement Subjects

Article 55

Subjects of enforcement are objects and rights of the enforcement debtor against which the enforcement is carried out.

Subjects of enforcement may not be the objects that cannot be legally traded, facilities, weapons and equipment intended for the security and defense of the Republic of Serbia, as well as the objects exempt from enforcement under this Law or other law.

Principle of Proportionality

Article 56

In choosing the instruments and subjects of enforcement in order to settle monetary claims, the public enforcement officer shall take care that the amount of the enforcement debtor's liability is proportional to the instrument, and the value of the subject of enforcement.

Multiple Instruments and Subjects of Enforcement

Article 57

As a general rule, the writ of execution for the settlement of monetary claims determines the instrument and the subject of enforcement specified in the enforcement motion.

If the enforcement motion designates multiple instruments and subjects of enforcement to be carried out simultaneously, the writ of execution shall determine all of them.

If the writ of execution determines multiple instruments and subjects of enforcement, in such manner that the next are to be carried out only if the previous ones are not sufficient to settle the enforcement creditor, the public enforcement officer may adopt a conclusion, upon the enforcement debtor's motion, to limit the enforcement to only certain instruments and subjects that are sufficient

for settlement of the enforcement creditor.

If they are not sufficient for settlement of the enforcement creditor, the public enforcement officer adopts a conclusion to order the implementation of enforcement on the next instrument and the subject of enforcement.

Amending and Adding Instruments and Subjects of Enforcement

Article 58

If the settlement is not possible from the instruments and subjects of enforcement which have already been determined, the public enforcement officer may, upon the enforcement creditor's motion, adopt the conclusion to change the instrument and subject of enforcement, or to determine that the enforcement shall continue on other instruments and objects of enforcement, in addition to those already determined.

The public enforcement officer may, upon the enforcement debtor's motion, adopt the conclusion to change already determined instrument and subject of enforcement, if the instrument and subject of enforcement proposed by the enforcement debtor are sufficient to satisfy the enforcement creditor.

Chapter Three ENFORCEMENT MOTION AND WRIT OF EXECUTION

1. Enforcement Motion

Motion for Enforcement Based on Enforcement Document

Article 59

The enforcement motion indicates identification data of the enforcement creditor and enforcement debtor (Article 30), the enforcement document, the enforcement creditor's claim, one instrument or one subject or multiple instruments and subjects of enforcement, and other data necessary for implementation of enforcement.

The enforcement motion contains the enforcement document enclosed in original, certified copy or transcript, and other document stipulated by this Law, provided that the enforcement document shall be furnished with the certificate of enforceability.

But, if the enforcement motion is filed with the court which decided in the first instance on the claim of the enforcement creditor, the enforcement document need not be enclosed, and if it is enclosed, a certificate of enforceability need not be included.

The enforcement motion shall be filed in at least four copies.

Motion for Enforcement against Entire Property of the Enforcement Debtor

Article 60

Enforcement creditor, who motions for the enforcement for settlement of a monetary claim, needs not to indicate the instrument and the subject of enforcement in the enforcement motion (enforcement against the entire property of the enforcement debtor).

In this case, the territorial jurisdiction for ruling on the enforcement motion shall be vested in the court in whose territory the enforcement debtor has permanent or temporary residence, or headquarters.

The writ of execution does not specify the instrument and the subject of enforcement, but the enforcement is determined against entire property of the enforcement debtor.

Motion for Passing the Writ with the Effect of the Writ of Execution

Article 61

When this Law provides that in the course of implementation of the enforcement on salary or other permanent monetary income, for the surrender of individually determined movable assets, for delivery of exchangeable objects and reinstatement of the employee, a writ may be passed that has the effect of the writ of execution (Art. 295, 345, 346, 349, 350, 352 and 384), it is passed upon the enforcement creditor's motion.

The enforcement creditor shall request in the motion that the court or the public enforcement officer render a writ to compel the enforcement debtor to settle the claim of the enforcement creditor within the time limit of eight days of the day of receipt of the writ, and determine the instrument and the subject of enforcement if the claim is not settled within the deadline.

The court, or the public enforcement officer renders a writ on dismissal of a motion that does not include a request to compel the enforcement debtor to settle the claim, or that failed to specify the instrument and the subject of enforcement, without prior returning the motion to be completed.

The objection against the writ on dismissal of the motion is permitted.

Motion for Enforcement Based on Credible Document

Article 62

The motion for enforcement based on credible document indicates the identification data of the enforcement creditor and the enforcement debtor (Article 30), the credible document, the enforcement creditor's claim, one instrument or one subject or multiple instruments and subjects of enforcement, and other data and documents necessary for implementation of enforcement.

The motion for enforcement based on credible document also contains a request for the court to compel the enforcement debtor to settle the monetary claim of the enforcement creditor, together with assessed costs of proceedings, within the term of eight days, and in disputes relating to bills of exchange, within the term of five days from the serving of the writ, and a request to determine enforcement for the purpose of settlement of the enforcement creditor's monetary claim and costs of proceedings.

The enforcement creditor shall enclose the credible document with the motion, in original, certified copy or transcript. Foreign credible document is translated by a court interpreter to the language officially used in court.

If the parties concluded an agreement on territorial jurisdiction, the enforcement creditor may request in the enforcement motion that the proceedings, if continued as per the objection against the payment order, continues before the court having the jurisdiction under the agreement on territorial jurisdiction. The enforcement creditor shall enclose the agreement on territorial jurisdiction with the motion.

Designation of the Public Enforcement Officer

Article 63

The enforcement creditor shall designate in the motion for enforcement based on enforceable or credible document the specific public enforcement officer with territorial jurisdiction to carry out the enforcement.

Deadline for Deciding on the Enforcement Motion and Decision on the Motion

Article 64

The court passes the ruling on the motion for enforcement based on enforceable or credible document within eight days from the day of receipt of the motion.

The court renders the writ of execution based on enforceable or credible document, or the writ on dismissal or rejection of the motion for enforcement based on enforceable or credible document.

The court expedites the writ within the term of three business days from the day of enactment.

Enforcement Motion Withdrawal

Article 65

The enforcement creditor may withdraw the enforcement motion, without the consent of the enforcement debtor, at any time during the enforcement proceedings, and even after the writ of execution has become final.

In this case, the proceedings shall be discontinued.

The enforcement creditor may file again the enforcement motion.

2. Writ of Execution Based on Enforceable or Credible Document

Contents of the Writ of Execution

Article 66

Writ of execution shall state the court; the enforcement creditor and the enforcement debtor and their identification details (Article 30), the enforcement document, claim of the enforcement creditor, instruments and subjects of enforcement, notice of entitlement to legal remedies, and other data necessary for implementation of enforcement.

If the enforcement creditor has not indicated the instrument and the subject of enforcement in the enforcement motion, the public enforcement officer shall, without the enforcement creditor's motion, adopt a conclusion to determine the instrument and the subject of enforcement, after identifying the enforcement debtor's property.

Contents of the Writ of Execution Based on Credible Document

Article 67

The writ of execution based on the credible document compels the enforcement debtor to settle the monetary claim of the enforcement creditor, together with the assessed costs of proceedings, within the term of eight days from the day of delivery of the writ, and in disputes relating to bills of exchange or checks, within the term of five days.

The same writ determines the instrument and the subject of enforcement for settling the monetary claim of the enforcement creditor and costs of the proceedings.

Appointing the Public Enforcement Officer and Recusal

Article 68

The writ of execution based on enforceable or credible document stipulates that the enforcement is

carried out by a public enforcement officer indicated by the enforcement creditor in the enforcement motion. The appeal, i.e. objection against the appointment of the public enforcement officer is permitted only if the public enforcement officer does not have territorial jurisdiction.

The enforcement debtor may file a motion for recusal of the public enforcement officer until the completion of the enforcement proceedings. The court rules on the motion for recusal within the term of five days from the day of receipt thereof.

If the motion for recusal of the public enforcement officer is accepted, the court immediately invites the enforcement creditor to indicate another public enforcement officer within the time period of five days, otherwise the enforcement proceedings is discontinued.

The objection against the decision on dismissal or rejection of the motion for recusal of the public enforcement officer is permitted.

The motion for recusal of the public enforcement officer does not delay the enforcement or security interest.

Inability of the Public Enforcement Officer to Carry Out Enforcement

Article 69

The public enforcement officer may inform the court that he is prevented from accepting the implementation of enforcement, within the term of five days from the day of receipt of the writ that needs to be enforced.

The court immediately forwards the notice to the enforcement creditor with the invitation to indicate another public enforcement officer within a specified time-frame; otherwise the enforcement proceedings are discontinued.

If the enforcement creditor indicates another public enforcement officer in due time, the court shall issue a writ to amend the writ of execution in this respect.

The objection against this writ is permitted, but only if the other public enforcement officer does not have territorial jurisdiction.

Who Delivers the Writ of Execution and to Whom

Article 70

The writ of execution based on enforceable or credible document is delivered to the public enforcement officer, with a copy of the documents necessary to carry out enforcement, and he further forwards the writ to the enforcement creditor and the enforcement debtor.

The decision on dismissal or rejection of the motion for enforcement based on enforceable or credible document is delivered by the court, only to the enforcement creditor.

The writ of execution that is, in addition to the parties, delivered also to others (debtor of the enforcement debtor, enforced collection organization, Central Securities Depository, etc.), is delivered by the public enforcement officer.

If the court has exclusive jurisdiction for enforcement, the writ of execution is delivered by the court to all of the abovementioned entities.

Absence of Jurisdiction of the Court to Carry Out Enforcement

Article 71

If the court that rendered the writ of execution has no jurisdiction to carry out the enforcement, and a court has exclusive jurisdiction over the enforcement, the court refers the writ of execution and case files to the competent court, which shall serve the writ of execution on the parties and carry out the enforcement.

3. Writ that has the Effect of the Writ of Execution

Article 72

In the writ that has the effect of the writ of execution, the court or the public enforcement officer compels the enforcement debtor to settle the claim of the enforcement creditor within the term of eight days from the day of receipt of the writ, and determines the instrument and the subject of enforcement if the enforcement debtor fails to settle the claim within the deadline.

Provisions regulating the contents of the writ of execution (Article 66, paragraph 1) apply *mutatis mutandis* to other elements of the writ.

Writ having the effect of the writ of execution is enforced by the court or the public enforcement officer, depending on who is implementing the enforcement of the writ of execution concerning which the writ having the effect of the writ of execution was passed.

The objection is permitted against the writ that has the effect of the writ of execution.

Provisions regulating the appeal against the writ of execution shall apply *mutatis mutandis* to the objection, except the provisions on compulsory delivery of the appeal to response.

Chapter Four APPEAL

1. Appeal against the Writ Rendered upon the Motion for Enforcement based on Enforcement Document

Article 73

The enforcement debtor may contest the writ of execution 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 writ of execution that exceeded his motion.

If the writ of execution is contested only in the part which assessed the costs of the enforcement proceedings, it is done so by an objection.

2. Appeal of the Enforcement Debtor against the Writ of Execution

Reasons for Contesting the Writ of Execution

Article 74

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

- 1) If the document based on which the writ of execution was rendered does not have the capacity of the enforcement document;
- 2) If the enforcement document, based on which the writ of execution was rendered, 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 based on which the writ of execution was rendered, have been annulled or otherwise revoked;
- 4) If the deadline for fulfillment of the enforcement debtor's obligation has not expired;
- 5) If the obligation of the enforcement debtor depends on prior or simultaneous fulfillment of the

enforcement creditor's obligation or on occurrence of a condition, and the enforcement creditor failed to fulfill his obligation or failed to secure the fulfillment thereof, or the condition has not occurred;

6) If the claim ceased to exist based on the fact that occurred at the time when the enforcement debtor could no longer present it in the proceedings from which the enforcement document originates, or after the conclusion of a court or administrative settlement or a public notary settlement record;

7) If the claim was not transferred to the enforcement creditor or if the obligation was not transferred to the enforcement debtor;

8) If the deadline for filing a motion for enforcement expired;

9) If the enforcement is determined on objects and rights that are exempt from enforcement, or against which the enforcement is limited;

10) If the claim that was awarded in the enforcement document has reached its statute of limitations;

11) If the writ of execution determines the public enforcement officer that has no territorial jurisdiction.

Contents of the Enforcement Debtor's Appeal

Article 75

The enforcement debtor shall specify in the appeal the reasons for contesting the writ of execution, the facts and evidence corroborating the reasons for contesting the writ of execution, 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.

First Instance Court Proceedings upon Enforcement Debtor's Appeal

Article 76

The appeal is filed with the first instance court that rendered the writ of execution.

The first instance court issues a writ dismissing the appeal that is late, incomplete or not permitted, within the term of five days from the day of receipt thereof, and expedites the writ 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.

If the enforcement debtor files the appeal against the writ on dismissal of the appeal, the first instance court delivers it to the second instance court on the next business day after the day of receipt thereof. If the second instance court adopts the appeal against the writ on dismissal of the appeal, it delivers the appeal against the writ of execution to the enforcement creditor for response (Article 78), and thereafter, it renders the decision thereupon (Article 79).

Copy of the case files always remain in the first instance court.

Delivery of Appeal against Writ of Execution for Response

Article 77

The first instance court that does not dismiss the appeal against the writ of execution delivers the appeal to the enforcement creditor for response, within the term of five days from the day of receipt thereof.

The deadline for responding to appeal is eight days from the day of delivery of the appeal to the enforcement creditor.

Ruling of Second Instance Court on Enforcement Debtor's Appeal

Article 78

The first instance court delivers the appeal, the response to the appeal and case files to the second instance court on the next business day following the receipt of the response to appeal or expiry of the deadline for response to appeal.

Copy of the case files remains at the first instance court.

The second instance court examines the first instance writ within the limits of the reasons stated in the appeal, observing *ex officio* the proper application of the substantive law, whether the court has jurisdiction to render the writ of execution, the subject-matter and territorial jurisdiction of the court, whether the document based on which the writ of execution was rendered has the capacity of an enforcement document, whether the deadline has expired for requesting the enforcement, and whether the enforcement was determined on an object which is not subject to legal transactions.

If the appeal against the writ of execution states a breach of procedure which the court does not observe *ex officio* (paragraph 3 of this Article), the second instance court shall determine whether such breach has actually affected the legality and correctness of the writ of execution.

Decisions on Appeal

Article 79

The second instance court issues a writ to dismiss, to adopt or to reject the appeal within the term of 15 days from the day of receipt of the appeal, the response to the appeal and the case files, and expedites the writ within the following three business days as of the date of issuing.

If the second instance court delivered the appeal for response, the deadline for deciding on the appeal is 30 days.

The court shall adopt the appeal if the enforcement debtor proves by a final decision, or an official or a legally certified document, that there are reasons that prevent the implementation of the enforcement.

Consequences of Adoption of Appeal

Article 80

The writ on adopting the appeal discontinues the enforcement proceedings, reverses the first instance writ of execution and dismisses the enforcement motion, or repeals the first instance writ of execution and dismisses the enforcement motion. The enforcement proceedings are not discontinued if the first instance court declares the lack of subject-matter or territorial jurisdiction, and the case files are transferred to the competent court.

If the implementation of the enforcement has already commenced, in addition to discontinuation of the enforcement proceedings, all enforcement actions that were taken are also repealed, but if the appeal was adopted due to the lack of subject-matter or territorial jurisdiction of the first instance court, only the court to which the case files were transferred may repeal already taken enforcement actions, if it is necessary for the proper conduct of the enforcement proceedings.

Civil Lawsuit for Determining Illicitness of Enforcement

Article 81

If the writ on the rejection of the appeal is based on facts which are disputed by the parties and which relate to the claim itself, the enforcement debtor may, within the term of 30 days from the day of delivery of the writ on the rejection of the appeal, initiate civil lawsuit for determining illicitness of the enforcement.

The complaint does not delay the enforcement.

The civil lawsuit has a priority in ruling and it is urgent.

Irrespective of the indicated value of the dispute, the provisions concerning small claims under the law regulating civil lawsuit procedure apply, and the revision is not permitted.

If the enforcement proceedings has not been completed, and the illicitness of the enforcement has been determined by a final decision of the court, the public enforcement officer, on the motion of the enforcement debtor, discontinues the enforcement proceedings and repeals the writ of execution and all implemented actions.

If the enforcement was completed by satisfaction of the enforcement creditor, and the main hearing before the first instance court has not yet been completed, the enforcement debtor, as the plaintiff, is entitled to alter the complaint without consent of the enforcement creditor, and file a motion to the court to compel the enforcement creditor, as the defendant, to return everything he received in the enforcement and reimburse the costs of the enforcement proceedings.

3. Appeal against Other Court Writs and Public Enforcement Officers' Writs

Ruling on Appeal

Article 82

The decision on the appeal against other court writs is rendered by the second instance court.

The decision on the appeal against the writ of the public enforcement officer is rendered by the second instance court with territorial jurisdiction for deciding on the appeal against the writ of execution.

Appellant shall state in the appeal all the reasons for contesting the writ and the facts and evidence on which the appeal is based.

Otherwise, a writ is issued to dismiss the appeal as incomplete, without prior returning to amendment.

Filing the Appeal and Duties of First Instance Court and Public Enforcement Officer

Article 83

The appeal is filed with the first instance court or the public enforcement officer in case his decision is contested.

The appeal may be delivered to response, and the response deadline is eight days from the delivery of the appeal.

Provisions regulating the procedure of the first instance court upon the appeal against the writ of execution (Article 76) apply *mutatis mutandis* to the procedures of the first instance court.

The public enforcement officer, whose decision is being contested by the appeal, keeps the copy of the case files.

Second Instance Court Procedure

Article 84

The second instance court observes *ex officio* the proper application of substantive law, whether the court has jurisdiction to pass the writ and the subject-matter and territorial jurisdiction of the court.

The second instance court shall decide whether the violations of procedure stated in the appeal actually affected the legality and correctness of the writ, only if the writ on dismissal or rejection of the enforcement motion based on enforcement document is being contested.

In all other respects, the provisions on the appeal against the writ of execution (Art. 78-80) apply *mutatis mutandis* to the second instance court actions.

4. Objection and Appeal against the Writ on the Motion for Enforcement Based on the Credible Document

a) Basic Provisions, Objection and Appeal

Article 85

The enforcement debtor may file the objection to contest the writ of execution based on a credible document, and the enforcement creditor may do so against the writ on dismissal or rejection of the motion for enforcement based on a credible document.

Also, the parties may file an objection to contest the writ only in part which pertains to assessed costs of procedure.

Parties may file an appeal to contest the writ passed on objection, except when they contested the writ only in part which pertains to assessed costs of the proceedings, in which case the appeal is not be permitted.

Provisions regulating the objection and the appeal of the enforcement debtor apply *mutatis mutandis* to the objection and the appeal of the enforcement creditor and the proceedings thereupon.

b) Objection and Appeal of Enforcement Debtor

Basic Provisions

Article 86

The enforcement debtor files the objection and appeal to the single judge who adopted the writ of execution based on credible document.

The objection is decided by the court panel, while the appeal by the second instance court.

The objection and the appeal of the enforcement debtor delay the enforcement of the writ of execution based on credible document until it has become final, except if it was adopted based on the bill of exchange.

If the enforcement debtor fails to file the objection, the single judge submits, within the term of three days from the expiry of the term for filing the objection, the case files to the public enforcement officer to implement the enforcement,.

Deadline for Deciding on Objection and Appeal and Court's Ex Officio Considerations

Article 87

The panel shall decide on the objection within the term of 15 days from the moment when the single judge delivers to the panel the objection and case files, and the second instance court shall decide on the appeal within the term of 15 days from the day of receipt of the appeal, the writ of the panel, and the case files.

The panel and the second instance court examine the writ within the limits of the reasons stated in the objection or the appeal, and observe *ex officio* the application of substantive law, whether the

court has jurisdiction to pass the writ, subject-matter and territorial jurisdiction of the first instance court, whether the document based on which the writ was passed has the capacity of a credible document, and whether the enforcement was imposed on the object that is not subject to legal transactions.

The writ passed on the objection and the appeal is expedited within three days from the day of enactment.

Scope of Examination of Writ of Execution Based on Credible Document

Article 88

If the enforcement debtor is contesting only the part of the writ which obligates him to settle the monetary claim, or only the part of the writ which sets the instrument and the subject of the enforcement, only the part of the writ being contested is examined.

If the writ is fully contested, the legality and correctness of the part of the writ that compels the enforcement debtor to settle the monetary claim is examined first.

If the objection does not specify the part of the writ that is being contested, only the part of the writ which determines the instrument and the subject of enforcement is examined.

c) Contesting the Writ of Execution Based on Credible Document only in Part that Compels the Enforcement Debtor to Settle the Monetary Claim

Grounds for Contesting and Contents of Objection

Article 89

The part of the writ which compels the enforcement debtor to settle the monetary claim, may be contested only if the claim stated in the credible document has not arisen or has not matured, if false content was entered into the credible document, if the claim stated in the credible document has been settled or otherwise ceased to exist, or if the claim has reached its statute of limitations.

The enforcement debtor shall state in the objection the reasons and facts for contesting the writ and to submit evidence on which the objection is based, otherwise the objection is dismissed as incomplete, without prior returning to amendment.

The enforcement debtor may submit only written evidence.

The enforcement debtor is not obliged to submit evidence that the claim stated in the credible document has not arisen.

Actions of Single Judge upon Objection

Article 90

The single judge is not authorized to dismiss the objection that was late, incomplete or not permitted.

If the enforcement debtor is contesting the writ because the obligation stated in the credible document has not arisen, the single judge, on the following business day after the receipt of the objection, delivers the objection to the enforcement creditor, who may respond to the objection within the term of five days.

Delivery of Objection, Writ and Case Files to the Panel

Article 91

The single judge delivers to the panel the objection, writ and the case files on the following business day after the receipt of the response to the objection or after the expiry of the deadline for responding to objection.

If the enforcement debtor filed the objection on other grounds and not due to the fact that the obligation from the credible document has not arisen, the single judge shall deliver the objection, the writ and the case files to the panel on the following business day after the receipt of the objection.

Panel Procedures

Article 92

The panel dismisses the objection that is late, incomplete or not permitted, within the term of five days from the day of receipt of the objection, the writ and the case files, and shall expedite this writ within the following three business days.

The enforcement debtor is entitled to appeal against the panel's writ on dismissal of the objection, within the term of three days from the day of receipt of the writ, otherwise the single judge, immediately upon expiry of the appeal deadline, delivers the case files to the public enforcement officer to implement the enforcement.

The panel adopts or rejects the objection, depending on who presented more probable arguments, and depending on the assessment of reasons stated in the objection and the reasons that it observes *ex officio*.

Consequences of Rejection and Adoption of Objection

Article 93

If the panel rejects the objection, the single judge delivers the case files to the public enforcement officer to implement the enforcement, as soon as the writ becomes final.

If the panel adopts the objection, it revokes the part of the writ that specifies the instrument and the subject of enforcement, and repeals the actions taken. After the finality of the writ on adoption of the objection, the proceedings are continued in the same manner as upon the objection against payment order, and if the court does not have subject-matter or territorial jurisdiction, the case files are delivered immediately to the competent court.

Appeal against Panel Ruling

Article 94

The enforcement debtor is entitled to appeal against the panel's writ on rejecting the objection, and the enforcement creditor is entitled to appeal against the panel's writ on adopting the objection.

If the enforcement debtor does not file the appeal, the single judge, within the term of three days from the expiry of the appeal deadline, delivers the case files to the public enforcement officer to implement the enforcement.

Actions of Single Judge upon Appeal

Article 95

The single judge is not authorized to dismiss the appeal that was late, incomplete or not permitted. The single judge shall deliver the appeal, the panel's writ and the case files to the second instance court on the following business day after the day of receipt of the appeal.

Second Instance Court Procedures and Reversal by Second Instance Court

Article 96

The second instance court dismisses the appeal that is late, incomplete or not permitted within the term of five days from the day of receipt of the appeal, the panel's writ and the case files, and expedites this writ within the term of following three business days. In this case, the single judge immediately delivers the case files to the public enforcement officer to implement the enforcement.

The same also applies when the second instance court rejects the appeal against the writ of the panel on the dismissal of the objection.

If the second instance court adopts the appeal against the panel's writ on the dismissal of the objection, it immediately decides on the appeal against the panel's writ on rejecting the objection.

In case the second instance court reverses the panel's writ passed on the objection, the provisions on the consequences of rejection or adoption of the objection (Article 93) apply *mutatis mutandis*.

d) Contesting the Writ of Execution Based on Credible Document Only in Part Specifying Instrument and Subject of Enforcement

Contents of Enforcement Debtor's Objection

Article 97

In the objection contesting the part of the writ that specifies the instrument and the subject of enforcement, the enforcement debtor shall state the reasons why the writ is contested and the facts and evidence on which the objection is based; otherwise the objection is dismissed as incomplete, without prior returning to amendment.

Actions of Single Judge upon Objection

Article 98

The ban on the single judge to dismiss the objection and the delivery of the objection, the writ and the case files to the panel, are regulated by provisions on the ban on the single judge to dismiss the objection (Article 90, paragraph 1), and *mutatis mutandis* by the provisions on delivering the objection, the writ and the case files to the panel (Article 91, paragraph 2) which apply when only a part of the writ of execution based on the credible document is contested in which the enforcement debtor is compelled to settle the monetary claim.

The single judge does not deliver the objection to the enforcement creditor for response.

Consequences of Rejection or Adoption of Objection

Article 99

If the panel rejects the objection, the single judge, immediately after the writ of execution based on credible document has become final, delivers the case files to the public enforcement officer to

implement the enforcement.

If the panel adopts the objection, the single judge, immediately after the writ on adoption of the objection has become final, informs the enforcement creditor that the part of the ruling compelling the enforcement debtor to settle the monetary claim has become an enforcement document based on which he may request again the enforcement, in the same or in other proceedings.

Appeal against Panel Ruling and Actions of Single Judge upon Appeal

Article 100

Provisions on the appeal against the panel's writ (Article 94) and actions of the single judge on the appeal (Article 95) that are applicable when only a part of the writ of execution based on the credible document is contested, which compels the enforcement debtor to settle the monetary claim, apply *mutatis mutandis* to the right to appeal against the panel's writ and the actions of the single judge on the appeal.

Second Instance Court Procedures and Reversal by Second Instance Court

Article 101

If the second instance court reverses the panel's writ passed on the objection, the provisions on the consequences of the adoption or rejection of the objection (Article 99) apply *mutatis mutandis*.

In every other respect, the provisions on the procedures of the second instance court (Article 96) applicable when only a part of the writ of execution based on credible document is contested which compels the enforcement debtor to settle the monetary claim, apply *mutatis mutandis*.

e) Contesting the Writ of Execution Based on Credible Document in its Entirety

Contents of Objection

Article 102

In the objection contesting the writ of execution based on credible document in its entirety, the enforcement debtor shall state the reasons for contesting the writ and the facts, and to present, i.e. enclose the evidence on which the objection is based, both with respect to the part of the writ compelling him to settle the monetary claim (Article 89) and the part of the ruling specifying the instrument and the subject of enforcement.

Otherwise, the objection is dismissed as incomplete, without prior returning to amendment.

Actions of Single Judge upon Objection

Article 103

The provisions on the actions of the single judge upon the objection (Article 90) and on the delivery of the objection, the writ and the case files to the panel (Article 91), applicable when only a part of the writ of execution based on the credible document is contested, which compels the enforcement debtor to settle the monetary claim, apply *mutatis mutandis* to the actions of the single judge upon the objection and to the delivery of the objection, the writ and the case files.

Order of Examining of the Writ and the Decision of the Panel

Article 104

The panel first examines the legality and correctness of the part of the writ that compels the enforcement debtor to settle the monetary claim, and if it determines that it is legal and correct, it examines the legality and correctness of the part of the writ that specifies the instrument and the subject of enforcement.

Thereafter, depending on who presented more probable arguments, and depending on the assessment of the reasons stated in the objection and the reasons observed *ex officio*, the panel passes:

- 1) The writ on rejection of the objection in its entirety - if it determines that both parts of the writ are legal and correct;
- 2) The writ on adoption of the objection in its entirety - if it determines that the part of the writ which compels the enforcement debtor to settle the monetary claim is not legal or correct;
- 3) The writ on rejection of the objection against the part of the writ that compels the enforcement debtor to settle the monetary claim, and on simultaneous adoption of the objection against the part of the ruling that specifies the instrument and the subject of enforcement - if it determines that the former part of the ruling is legal and correct, and the latter is not.

Consequences of Adoption and Rejection of Objection

Article 105

If the panel rejects the objection in its entirety, the single judge, immediately after the writ of execution based on credible document has become final, delivers the case files to the public enforcement officer to implement the enforcement.

If the panel adopts the objection in its entirety, it shall revoke the part of the ruling that specifies the instrument and the subject of enforcement and repeals the actions taken. Once the writ on adoption of the objection in its entirety has become final, the proceedings are continued as per objection against the payment order, and if the court does not have subject-matter or territorial jurisdiction, the case files are delivered immediately to the competent court.

After the finality of the writ on rejection of the objection against the part of the writ which compels the enforcement debtor to settle the monetary claim, and simultaneous adoption of the objection against the part of the writ that specifies the instrument and the subject of enforcement, the single judge immediately informs the enforcement creditor that the part of the writ which compels the enforcement debtor to settle the monetary claim has become the enforcement document based on which he may request the enforcement again, in the same or in other proceedings.

Appeal against Panel's Writ and Actions of Single Judge upon Appeal

Article 106

Provisions on the appeal against the panel's writ (Article 94) and on actions of the single judge on the appeal (Article 95) that are applicable when only a part of the writ of execution based on the credible document is contested, which compels the enforcement debtor to settle the monetary claim, apply *mutatis mutandis* on the right to appeal against the panel's writ and against the actions of the single judge on the appeal.

Reversal by Second Instance Court

Article 107

If the second instance court reverses the panel's writ on rejection or adoption of the objection in its entirety, the provisions on the consequences of the adoption or the rejection of the objection in its entirety (Article 105, paras. 1 and 2) apply.

If the second instance court reverses the writ on rejection of the objection against the part of the writ which compels the enforcement debtor to settle the monetary claim and on simultaneous adoption of the objection against the part of the writ that specifies the instrument and the subject of the enforcement, so as to adopt the objection against the first part of the writ, the provisions on the consequences of the adoption of the objection in its entirety (Article 105, paragraph 2) apply.

If the second instance court reverses the writ on rejection of the objection against the part of the writ which compels the enforcement debtor to settle the monetary claim and on simultaneous adoption of the objection against the part of the writ that specifies the instrument and the subject of the enforcement, so as to reject the objection against the part of the writ that specifies the instrument and the subject of enforcement, the single judge immediately delivers the case files to the public enforcement officer to implement the enforcement.

5. Third Party Objection

Requirements for Objection and Contents of Objection

Article 108

Third party asserting to have a right over the subject of enforcement, which prevents the enforcement, may file an objection to the public enforcement officer requesting to declare the enforcement against such subject illicit.

Third party objection may be filed until the completion of the enforcement proceedings.

Third party shall state in the objection the reasons for objection and to enclose the documents that evidence the existence of his right; otherwise the objection is dismissed as incomplete, without prior returning to the amendments.

The objection is delivered to the enforcement creditor in order to make declaration thereupon within the term of eight days, with the warning on the default consequences (Article 109, paragraph 1), and is also delivered to the enforcement debtor.

Decisions on Third Party Objection

Article 109

If the enforcement creditor fails to make declaration on the objection in due time, or fails to challenge the objection, or if a third party proves the objection by a final decision, or an official or a legally certified document, a writ is passed to adopt the objection, and the enforcement proceedings with respect to the subject of enforcement is discontinued, along with repealing of the writ of execution and all the actions taken.

In other cases, a writ is passed on rejecting the objection.

Legal Remedies

Article 110

The objection against the writ on dismissal or adoption of the objection is permitted.

The appeal against the writ on rejection of the objection is not permitted.

If the panel adopts the objection against the writ on the dismissal of the objection, it immediately decides on the merits of the objection.

Civil Lawsuit to Determine Illicitness of Enforcement

Article 111

Within 30 days from the date of the receipt of the final writ on the rejection of the objection, a third party may initiate civil lawsuit against the enforcement creditor with the aim of determining that the enforcement against the subject is illicit.

Civil lawsuit does not stay the enforcement.

The enforcement debtor challenging the right of a third party must be included in the complaint.

Provisions on civil lawsuit procedure for determining the illicitness of the enforcement (Article 81) apply to the civil lawsuit.

If the enforcement proceedings has not yet been completed, and the court has determined by a final ruling that enforcement against the subject is illicit, the public enforcement officer, at the motion of a third party, discontinues the enforcement proceedings with respect to such subject, and repeals the writ of execution and all implemented actions.

When it Cannot be Requested to Determine the Enforcement Illicit

Article 112

Co-owner, whose stake in a movable asset does not exceed the half of its value, may not request that the enforcement against the subject, with respect to his or her stake, is declared illicit.

He is entitled to request payment of the share of the proceeds generated by sale of the assets, proportional to his stake, prior to other persons entitled to be satisfied and prior to settlement of the costs of the enforcement proceedings, or to request that the asset is assigned to him upon payment of the deposit in the amount of the enforcement debtor's stake in the asset.

If his stake in the asset has been challenged, he may file a complaint against the enforcement creditor with the aim of determining the existence of his stake.

Chapter Five COUNTER-ENFORCEMENT

Motion for Counter-Enforcement

Article 113

After the enforcement has been carried out, the enforcement debtor may file a motion with the court for counter-enforcement.

The motion for counter-enforcement contains the request to the court to pass the writ which shall compel the enforcement creditor to return to the enforcement debtor, within the term of eight days, everything he received by enforcement, and to specify the instrument and the motion for enforcement if the enforcement creditor fails to return what he received within the set deadline.

Competent Court

Article 114

The motion for counter-enforcement is filed with the court with the territorial jurisdiction to implement compulsory return to the enforcement debtor of everything the enforcement creditor received.

The same court also decides on the motion.

The court passes a writ to dismiss the motion for counter-enforcement which does not contain the request to compel the enforcement creditor to return everything he received, or which failed to specify the instrument and the subject of enforcement, without prior returning the motion to amendment.

Reasons for Counter-Enforcement

Article 115

The motion for counter-enforcement shall be filed if:

- 1) Enforcement 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, the enforcement debtor voluntarily settled the claim of the enforcement creditor out of court, which resulted in double settlement of the enforcement creditor - within the term of 30 days from the completion of the enforcement proceedings;
- 3) Writ of execution has been repealed or reversed so that the motion for enforcement was dismissed or rejected - within the term of 30 days from the receipt of the decision by the enforcement debtor;
- 4) 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) Enforcement creditor received more than the amount of his claim, or if during the enforcement against wages or other permanent monetary earnings the provisions on the restriction of enforcement have not been observed - within the term of 30 days after the completion of the enforcement proceedings.

The enforcement debtor may not exercise claim in civil lawsuit prior to the expiry of the term in which the motion for counter-enforcement may be filed.

Procedure on Motion for Counter-Enforcement

Article 116

The motion for counter-enforcement is served on the enforcement creditor for the response thereto within the term of eight days, with attached warning on the default consequences.

If the enforcement creditor fails to respond to the motion or to challenge the motion in due time, the motion is adopted.

The motion challenged in due time is either adopted or rejected, depending on the circumstances.

Contents of the Writ on Adoption of the Motion for Counter-Enforcement and Appeal

Article 117

In the writ on the adoption of the motion for counter-enforcement, the court compels the enforcement creditor to return to the enforcement debtor, within the term of eight days, everything

he received in the enforcement, and specifies the instrument and the motion for enforcement, if the enforcement creditor fails to return within the set deadline what he received.

The appeal by which the enforcement creditor contests the entire writ or a part of the writ that compels him to return to the enforcement debtor everything he received, delays the enforcement of the part of the writ which determines the instrument and the subject of enforcement only if the enforcement creditor, together with the appeal, deposits a guarantee in the amount of the enforcement debtor's claim.

The appeal to contest only the part of the writ that specifies the instrument and the subject of enforcement does not delay the enforcement of the writ that adopted the motion for counter-enforcement.

In all other aspects, the provisions on the appeal against the writ of execution apply *mutatis mutandis* to the appeal against the adoption of the motion for counter-enforcement, except for the provisions on mandatory delivery of the appeal to response.

Impossibility of Counter-Enforcement

Article 118

The motion for counter-enforcement is rejected if the subject has undergone such factual or legal changes that return of the subject is no longer possible.

In such a case, the enforcement debtor may immediately exercise his right in a civil lawsuit.

Mutatis Mutandis Application to Third Party

Article 119

The motion for counter-enforcement may also be filed by a third party, if the enforcement was implemented against the subject for which the final court ruling determined the illicitness of enforcement, within the term of 30 days from the receipt of the decision by the third party.

In every other aspect, the provisions on counter-enforcement upon the motion of the enforcement debtor apply *mutatis mutandis*.

Chapter Six DELAY OF ENFORCEMENT

Delay upon Enforcement Creditor's Motion

Article 120

At the motion of the enforcement creditor, the public enforcement officer renders a non-appealable writ to delay the enforcement that has not yet started.

If the implementation of the enforcement has already started, and the enforcement debtor objects the adjournment within the set deadline, the public enforcement officer rejects the enforcement creditor's motion.

If the enforcement may be requested only within a specified deadline, the enforcement creditor may file a motion for delay only prior to the expiry of such deadline, otherwise the public enforcement officer dismisses the motion.

The appeal against the writ on dismissal or rejection of the enforcement creditor's motion is not permitted.

Agreement of the Parties on Delay

Article 121

If the party agrees to delay motioned by the opposing party, or if the parties agree with the delay motioned by a third party, a writ shall be passed to determine that the enforcement has been delayed by agreement of the parties.

In this case the writ is passed without examining the reasons for delay.

If the delay is motioned by the enforcement debtor or a third party, the agreement is possible until the writ on the motion for delay has become final.

If the enforcement was delayed by agreement of the parties, the adjournment period is not included in the duration of the proceedings with respect to protection of the right to a trial within a reasonable time.

The appeal against the writ on the delay by agreement of the parties is not permitted.

Delay of Enforcement upon Enforcement Debtor's Motion

Article 122

The enforcement may once during the enforcement proceedings file a motion to the public enforcement officer to delay the enforcement.

In this case, the enforcement may be delayed if the enforcement debtor makes it probable that he would suffer irretrievable or hardly retrievable damage, greater than the damage that would be inflicted to the enforcement creditor due to the delay, and if the adjournment is justified by particular reasons evidenced by the enforcement debtor using an official or a legally certified document.

At the motion of the enforcement creditor, which is possible until the passing of the writ on the motion of the enforcement debtor, the public enforcement officer conditions the delay with depositing of the security by the enforcement debtor, except if depositing of the security would lead to heavy scarcity of the enforcement debtor or his family members.

It is deemed that the motion for adjournment has been withdrawn if the enforcement debtor fails to deposit the security within the period set by the public enforcement officer.

Delay upon the Motion of a Third Party

Article 123

At the motion of a third party who filed the objection for declaring the enforcement against a particular subject of enforcement illicit, the public enforcement officer delays the enforcement, only once during the enforcement proceedings, if a third party proves his right by a final decision or an official or a legally certified document.

Period for Deciding and Objection

Article 124

The public enforcement officer shall render the writ on the motion for delay filed by the enforcement debtor or a third party within the term of five days of the receipt thereof, and to expedite the writ within three business days of its enactment.

The objection against the writ rendered on the motion for delay filed by the enforcement debtor or a third party is permitted.

Effects of Enforcement Delay

Article 125

The writ delaying the enforcement becomes effective from its enactment.

During the delay the actions for implementation of the enforcement are not taken.

Exceptionally, after enactment of the writ on delay in the process of settling the monetary claim, the actions based on which the enforcement creditor acquires right of pledge or the right of settlement over the subject of enforcement, and appraises the value of the subject of enforcement are taken.

Enforcement Delay Period

Article 126

The delay motioned by the enforcement creditor lasts as long as motioned by the enforcement creditor. If the enforcement may be asked for only within a specified period of time, the delay lasts until the expiry of such period.

When the enforcement is delayed at the motion of the enforcement debtor, the duration of the delay shall be set by the public enforcement officer, depending on the circumstances.

Continuation of Delayed Enforcement

Article 127

The enforcement is continued *ex officio* immediately after expiry of the delay period.

At the motion of the enforcement creditor, the enforcement may be continued prior to the expiry of the delay period, if the enforcement makes it probable that the reasons for delay have ceased or if he deposits a guarantee.

If the duration of the delay is set by the agreement between the parties or between the parties and a third party, the enforcement is continued prior to the expiry of the delay period only with the consent of all of them.

If the enforcement is delayed on the motion of the enforcement creditor or upon the agreement between the parties, or between the parties and a third party, the public enforcement officer shall continue the enforcement on the motion of the enforcement creditor who entered the enforcement proceedings.

The objection against the writ on continuation of the enforcement prior to the expiry of the delay period is permitted.

Chapter Seven FINALIZATION OF ENFORCEMENT PROCEEDINGS

Manners of Finalizing Enforcement Proceedings

Article 128

The enforcement proceedings are finalized by discontinuation or closure.

The enforcement proceedings are also finalized after the writ on dismissal or rejection of the motion for enforcement has become final.

Discontinuation of Enforcement Proceedings

Article 129

The public enforcement officer *ex officio* passes the writ to discontinue the enforcement proceedings:

- 1) If the enforcement document, based on which the writ of execution was rendered, has been finally or absolutely repealed, reversed or revoked;
- 2) If the certificate of enforceability of the decision has been finally repealed;
- 3) If a party dies and the claim is not heritable;
- 4) If a legal person that is a party is dissolved with no legal successor;
- 5) If a claim ceases to exist;
- 6) If the enforcement has become impossible or cannot be implemented due to other reasons (the subject of enforcement has been destroyed, the enforcement debtor has no assets, etc.);
- 7) Due to other reasons specified in this Law or other law.

The writ on discontinuation also repeals all actions taken, if this does not affect the acquired rights of other persons.

The actions by which the enforcement creditor acquired the right of pledge in the enforcement proceedings are not repealed if the proceedings are discontinued due to the bankruptcy of the enforcement debtor.

Closure of Enforcement Proceedings

Article 130

The enforcement proceedings are closed upon satisfaction of the enforcement creditor, by adopting the conclusion to determine that the last of the enforcement actions has been taken.

Exceptionally, when the Republic of Serbia or a social security organization are the enforcement debtors in the monetary claim, the enforcement proceedings is deemed to be closed when the National Bank of Serbia informs the public enforcement officer that the enforcement has been fully implemented.

In this case, the enforcement creditor may file a motion to the public enforcement officer to continue the enforcement proceedings, if he believes that he was not adequately or fully satisfied, within the term of 30 days from when the enforcement proceedings are deemed to be closed.

The objection against the writ on the motion for continuation of the enforcement is permitted.

Chapter Eight FINE

Fine Levying

Article 131

A fine is levied against the enforcement debtor who disposes, hides, damages or minimizes his assets or takes actions that may inflict irreparable damage, or damage which would be difficult to repair to the enforcement creditor, which prevents the court or the public enforcement officer to take particular actions of enforcement or security interest, acts contrary to the decision on security interest, interferes with the work of the enforced collection organization, or employer, or any person

executing the writ of execution based on enforcement document or credible document, or prevents or interferes with the inspection of the immovable property, or inventory of the movable assets, or the appraisal thereof.

The enforcement debtor, the debtor of the enforcement debtor, bank, employer of the enforcement debtor, the Business Registers Agency, the Central Registry of Securities, the Republic Geodetic Authority and the custody body may be fined if they fail to comply with the order or prohibition of the court or the public enforcement officer, and the bank also if it fails to comply with the order or prohibition issued by the enforced collection organization.

The fine is levied by the writ of the court, at its own initiative, or on the motion of the enforcement creditor or the public enforcement officer, taking into account the importance of the action or omission due to which the fine is being imposed. The person to whom the fine is imposed is instructed in the writ of the possibility to be imposed with a new fine, and the enforcement debtor is also instructed on the possibility that the fine may be replaced with imprisonment.

A natural person, a natural person performing a business activity, a sole trader and a responsible person in a legal person or a state authority, is fined 10,000 to 200,000 dinars, while a legal person or a state authority 100,000 to 2,000,000 dinars.

A fine may be levied again, until the reasons for imposing thereof have ceased.

The objection against the writ on levying a fine is permitted.

Replacing Fine with Imprisonment

Article 132

Deadline for payment of fine is eight days from the delivery of the writ on its imposition.

If the fine is not paid within the deadline, the court that has imposed the fine immediately renders the writ of execution of the fine and the costs of its imposition and enforcement thereof, against which the objection is permitted.

The writ of execution is enforced by the court or the public enforcement officer, depending on who is implementing the enforcement of the writ of execution on the account of which the writ on imposition of fine was passed.

If the public or judicial enforcement officer informs the court that the enforcement of the fine cannot be implemented, the court that imposed the fine immediately passes the writ to replace every 1,000 dinars of fine with one day of imprisonment, up to the maximum of 60 days. The imprisonment is executed in line with the law regulating the execution of criminal sanctions.

If the reasons for which the fine was imposed have ceased, the court may issue a non-appealable writ to instruct that a fine is decreased or not enforced. The enforcement debtor is instructed thereof in the writ on imposition of the fine.

The objection against the writ on replacement of the fine with imprisonment is permitted, and delays the enforcement of the writ.

Chapter Nine IMPLEMENTATION OF ENFORCEMENT

Commencement of Enforcement Implementation

Article 133

The implementation of enforcement commences prior to the finality of the writ of execution.

The enforcement of the writ of execution based on credible document is implemented after it has

become final, except when it was rendered based on the bill of exchange.

Limits of Enforcement

Article 134

The enforcement is implemented within limits set by the writ of execution.

Satisfaction of Enforcement Creditor Prior to Finality of Writ of Execution Based on Enforcement Document

Article 135

The enforcement creditor may be satisfied even prior to the finality of the writ of execution that was based on the enforcement document.

Nevertheless, the immovable property and movable assets, against which the monetary claim is to be settled, may not be sold prior to the finality of the writ of execution.

Implementation of Enforcement by Public Enforcement Officer and Court

Article 136

The public enforcement officer commences the implementation of enforcement when, with respect to the instrument of the enforcement, he takes the first action stipulated by this Law.

If the court has the exclusive jurisdiction for the enforcement, it turns to commencing the implementation of enforcement *ex officio*, when, with respect to the instrument of the enforcement, it takes the first action stipulated by this Law.

Mediation Duty of Public Enforcement Officer

Article 137

The public enforcement officer shall act as mediator between the parties with the aim of reaching the amicable satisfaction of the enforcement creditor.

Relationship of Enforcement Creditor and Public Enforcement Officer

Article 138

The public enforcement officer derives his authority from the law and ensures that the satisfaction of the enforcement creditor is as fast and favorable as possible, while observing the law and the rights of the enforcement debtor in this process.

The public enforcement officer is not obliged to comply with the motion of the enforcement creditor to take or omit an action for which only the public enforcement officer is authorized. If both of them are authorized to perform the same action, one cannot revoke the action of the other.

The public enforcement officer may not cancel the implementation of the enforcement to the enforcement creditor.

Replacement of Public Enforcement Officer

Article 139

The enforcement creditor may indicate that the enforcement is continued by another public enforcement officer instead of the one already determined.

In this case, the public enforcement officer adopts a conclusion on the discontinuation of the implementation of enforcement by him, and determination of another public enforcement officer, and assigns the case files to another public enforcement officer, who immediately adopts a conclusion on the continuation of the enforcement.

Impediment of Public Enforcement Officer to Continue Enforcement

Article 140

The public enforcement officer determined to continue the enforcement, but who is prevented to accept the implementation of enforcement, shall inform the enforcement creditor thereof within the term of five days from the day of receipt of the case files, and invite him to indicate another public enforcement officer within the following five days; otherwise the enforcement proceedings is discontinued.

Period of Implementation of Enforcement

Article 141

The enforcement is implemented every day, from 07:00 to 22:00 hours.

The enforcement may be implemented outside the specified period if the enforcement debtor is avoiding the fulfillment of the obligation or if it is required by particularly justified reasons.

The enforced collection organization implements the enforcement on the financial assets of the enforcement debtor, every business day from 09:00 to 16:00 hours.

Procedure for Implementation of Enforcement

Article 142

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 of 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.

Request for Police Assistance

Article 143

In case of occurred resistance to enforcement, or if the resistance is reasonably expected, the public enforcement officer shall file a written request for police assistance to the competent organizational unit of the police, at least five days prior to the enforcement action, specifying the reasons for requesting the police assistance. The copy of the writ of execution is enclosed with the

request.

In emergency situations, the police assistance may be requested orally, and the written request is submitted within the deadline of 48 hours. An emergency exists when the police assistance is needed to stop danger to the life or health of people or property on a larger scale.

Police Actions upon Request for Assistance

Article 144

The police shall, immediately upon the request for assistance, perform all safety checks, temporarily confiscate legal weapons from persons that may threaten the execution of action, and undertake other actions stipulated by the law to create conditions for the safe execution of the action.

Prior to the execution of the action, the police shall give warning to the enforcement debtor and other persons present, that coercive means shall be used if they interfere or prevent the execution of the action, together with other measures and actions legally permitted in the course of enforcement, at its own initiative or as requested by the public enforcement officer.

If disturbance of the public order and peace or violence of a greater scale is reasonably expected in the course of execution of the action, the head of the competent organizational unit of the police may request from the public enforcement officer in writing, not later than 48 hours prior to the beginning of the execution of the action, to stay the enforcement, with the aim of taking measures and actions necessary for safe execution of the action. The public enforcement officer shall, together with the head of the competent organizational unit of the police, order the execution of the action within a deadline that may not be longer than ten days.

If the head of the competent organizational unit of the police fails to fulfill the obligations prescribed in this Article, the public enforcement officer shall inform thereof the ministry in charge of the interior affairs and the competent public prosecutor, with the aim of initiating legally stipulated procedure for determining liability.

Posting a Wanted Circular for Enforcement Debtor

Article 145

A court which rendered the writ of execution may, at the motion of the public enforcement officer, order issuance of a wanted circular for the enforcement debtor, if his presence is required under the provisions of this Law, and he is on the run, or otherwise avoiding the implementation of the enforcement.

The court delivers the order to the police authorities for execution. The order contains the name of the court that issued the order, name of the organizational unit of the police to which the order is delivered, first name and family name, unique master citizen number, and address of the permanent or temporary residence of the enforcement debtor, reasons for ordering the issuance of the wanted circular, the name of the court to which the enforcement debtor should be brought and official seal and signature of the judge who issued the order.

The wanted circular is issued by the police that has jurisdiction in the territory of the court that rendered the writ of execution.

Posting the Announcement

Article 146

When it is necessary to find motor vehicles or other subjects of enforcement in the course of the enforcement proceedings, the public enforcement officer may issue an order to post an announcement.

The public enforcement officer delivers the order to the police authority for execution. The order contains the first name and family name of the public enforcement officer who issued the order,

name of the organizational unit of the police to which the order is delivered, identification data on the subject of the announcement, instructions for manner of handling the found object, and the official seal and signature of the public enforcement officer who issued the order.

The announcement is posted by the police authority with jurisdiction in the territory of the court that rendered the writ of execution.

The police shall temporarily seize the motor vehicle, other object or a subject of enforcement. The public enforcement officer must take over the seized objects within 24 hours from receiving the notification of the fact that they have been seized.

Costs of Providing Police Assistance and Taking Police Actions

Article 147

The costs of providing police assistance and taking police actions upon the request or the order of the court or the public enforcement officer are the costs for engaging the police officers and use of the police transport means and equipment, the amount of which is stipulated by the regulation determining the amount of the fee for the services rendered by the ministry in charge of the interior affairs.

The competent organizational unit of the police which provides police assistance or takes the police actions in the enforcement proceedings shall deliver the costs calculation to the public enforcement officer. Calculation of costs is included in the costs of the enforcement proceedings.

The amount of the costs is paid to the account specified for payment of the public revenues of the Republic of Serbia.

Irregularities in Implementation of Enforcement

Article 148

The party and the participant in the proceedings may request the elimination of irregularities that occurred during and in connection to the implementation of enforcement. Irregularities may include failure to render a decision and to take or omit the action.

The request for elimination of irregularities may be submitted within the term of 15 days from the day when the decision had to be rendered, or when the action was taken or had to be taken.

The request is submitted to the court or the public enforcement officer, depending on who is implementing the enforcement, who shall decide thereupon within the term of five days, without delaying the enforcement.

The request for eliminating the irregularities is decided by a writ.

If the request has not been decided within five days from the day of receipt of the request, or the request is dismissed or rejected, the objection is permitted.

Merits of Request for Elimination of Irregularities

Article 149

When the request for elimination of irregularities is justified, the court, i.e. the public enforcement officer determines that the irregularity has been committed, repeals the actions taken, and undertakes or orders the undertaking of actions that eliminate the consequences of the taken actions.

When the request is justified, and the irregularity is reflected in the failure to render decision or failure to act, the court, i.e. the public enforcement officer determines that the irregularity was committed and renders the decision, or undertakes or orders the undertaking of the omitted action.

The court, i.e. the public enforcement officer informs the ministry in charge of justice (hereinafter: the Ministry) and the Public Enforcement Officers' Chamber (hereinafter: the Chamber) that it was

established that the public enforcement officer committed the irregularity in the implementation of enforcement.

PART THREE ENFORCEMENT FOR SETTLEMENT OF MONETARY CLAIM

Chapter One ENFORCEMENT ON IMMOVABLE PROPERTY

1. General Rules

Territorial Jurisdiction

Article 150

The court in whose territory the immovable property is located has the exclusive territorial jurisdiction to decide on the motion for enforcement for the settlement of a monetary claim on immovable property.

If the immovable property is located in the territory of different courts, the court that was the 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

Article 151

Enforcement of a monetary claim on immovable property is implemented by entry of the writ of execution annotation in the cadastre of immovable property, appraisal of the immovable property, sale of the immovable property and satisfaction of the enforcement creditor from the sale proceeds.

Evidence of Enforcement Debtor's Ownership

Article 152

When submitting a motion for enforcement of a monetary claim against immovable property, the enforcement creditor shall submit an extract from the cadastre of immovable property evidencing that the immovable property is registered as the enforcement debtor's ownership.

If another person is registered as the owner of the immovable property, the enforcement creditor's motion for enforcement includes a document suitable for registration of the enforcement debtor's ownership.

The enforcement debtor's ownership right is entered in the cadastre of immovable property, at the request of the court.

After the registration of the enforcement debtor's ownership right, the court renders the writ of execution.

Enforcement in the Case of Change of Owner of Immovable Property after Acquiring the Right of Pledge

Article 153

If after acquiring the right of pledge on the immovable property the owner of the immovable property changes, the enforcement creditor indicates in the motion for enforcement the pledgor as the enforcement debtor, and the new owner shall suffer the settlement from the immovable property.

Acts of the court and the public enforcement officer, and processes of the parties and other participants in the proceedings, are served on the new owner of the immovable property.

Writ of Execution in Case of Co-ownership over Immovable Property

Article 154

If the immovable property is co-owned, the writ of execution shall determine enforcement on the enforcement debtor's share in the co-owned property.

The writ of execution may, with the consent of all co-owners, determine that the entire immovable property is sold to another person or to one of the co-owners.

In this case, other co-owners are satisfied from the sale proceeds prior to settlement of costs of the enforcement proceedings, in proportion with their respective co-owner's share.

This does not affect the pre-emptive right of the co-owners.

Acquiring of Right to Satisfaction from Immovable Property by Enforcement Creditor

Article 155

The public enforcement officer immediately delivers the writ of execution to the authority keeping the cadastre of immovable property, with the aim of entering the annotation of the writ of execution.

The authority keeping the cadastre of immovable property shall enter the annotation of the writ of execution within 72 hours from the receipt of the application for entry; otherwise it is deemed that the annotation was entered upon expiry of 72 hours after the receipt of the application for entry.

By entering the annotation of the writ of execution, the enforcement creditor acquires the right to be satisfied from the immovable property (right of satisfaction) even if another person subsequently acquires the ownership right over it.

The enforcement creditor who did not acquire the right of pledge prior to the entry of the annotation on the writ of execution, acquires as of the entry of annotation the right to be satisfied prior to any person that subsequently acquires the right of pledge or the right of satisfaction from the immovable property.

Change of Owner of Immovable Property during Enforcement Proceedings

Article 156

As of the entry of annotation on the writ of execution, it is not permitted to record in the cadastre of immovable property the change of the ownership right over the immovable property, or any other real estate right based on the owner's disposal, regardless of the time of such disposal.

If during the enforcement proceedings, the owner of the immovable property is changed, and such change is not based on the disposal of the previous owner, the proceedings continue against the

new owner as the enforcement debtor. All actions that were previously taken shall remain in force, and the new owner may not take the actions that the previous owner would not be able to take if the change had not occurred.

The public enforcement officer, at the motion of the enforcement creditor, adopts a conclusion to continue the enforcement proceedings against the new owner in the role of the enforcement debtor.

Accession to Enforcement Proceedings

Article 157

A separate enforcement proceedings for settlement of some other claim on the same immovable property is not permitted after the entry of the oldest annotation of the writ of execution.

A new enforcement creditor accesses already initiated enforcement proceedings, and acquires the right of satisfaction by entering the annotation of the writ of execution used for accessing the enforcement proceedings.

Accession to the enforcement proceedings is possible until adoption of the conclusion to award the immovable property to the buyer.

The public enforcement officer informs the enforcement creditor, whose entry of the writ of execution annotation is oldest, about the accession to the enforcement proceedings, and enforcement creditors that already accessed the enforcement proceedings.

Consequences of Accession to Enforcement Proceedings

Article 158

The enforcement creditor accesses the enforcement proceedings in the state in which such proceedings is at that time, and may not take the actions that were previously possible.

Reasons for discontinuation of the enforcement proceedings operating towards one enforcement creditor do not operate towards others.

The enforcement proceedings is not delayed if the reasons for delay are pertaining only to one enforcement creditor, but in adopting the conclusion on settlement, his satisfaction is delayed, pending continuation of the proceedings in his case. If the proceedings are not continued in his case, the funds reserved for his satisfaction are handed over to other enforcement creditors or to the enforcement debtor.

Pledge Rights

Article 159

Pledge creditors are satisfied in the enforcement proceedings even if they failed to file the motion for enforcement, or to register their claims in the enforcement proceedings.

The right of pledge ceases upon adopting of the conclusion on surrendering of the immovable property to the buyer, even if the pledge creditor was not fully satisfied.

The buyer of the immovable property and the pledge creditor may agree in writing, prior to the expiry of the deadline for payment of the sale price, that right of pledge remains on the immovable property after its surrender to the buyer, and that the buyer assumes the debt of the enforcement debtor towards the pledge creditor in the amount that the enforcement creditor would receive from the sale proceeds. The sale price is decreased for the amount of the assumed debt.

The agreement between the buyer and the pledge creditor must be approved by the conclusion of the public enforcement officer.

Easements and Real Estate Encumbrances

Article 160

Real estate easements over immovable property do not cease after the sale of the immovable property.

Personal easements or real estate encumbrances that were recorded in the cadastre of immovable property prior to the oldest pledge over the immovable property or the oldest writ of execution also do not cease after the sale of the immovable property.

Other personal easements and real estate encumbrances cease upon the adoption of the conclusion on the sale of the immovable property.

Holders of personal easements and real estate encumbrances that have ceased are entitled to compensation.

Lease of Immovable Property

Article 161

Sale of immovable property does not terminate a lease of such immovable property, if the lease contract has been recorded with the cadastre of immovable property prior to the oldest pledge over the immovable property or the oldest writ of execution.

The buyer assumes the rights and obligations of the lessor.

Lease of Apartments for an Indefinite Period of Time

Article 162

The sale of the immovable property does not terminate the lease of an apartment for an indefinite period of time, which was realized according to the law regulating the housing.

The buyer assumes the rights and obligations of the lessor.

Inspection of Immovable Property

Article 163

The conclusion on the sale determines the time when the parties interested in purchasing may inspect the immovable property.

Exemption of Certain Immovable Property from Enforcement

Article 164

Agricultural land of a farmer up to 10 ares may not be subject to enforcement.

This does not apply to settlement of the monetary claim secured by a contracted mortgage or a pledge statement.

Appraisal of the Immovable Property

Article 165

Immovable property is appraised according to the market price on the date of appraisal.

The public enforcement officer may decide to appraise the immovable property on the basis of a written notice of the price obtained from the relevant organizations, institutions, or legal and natural persons with appropriate expertise.

The public enforcement officer may also accept the appraisal of the immovable property proposed by the enforcement creditor if it is not older than 6 months and originates from a relevant organization, institution, or legal and natural persons with appropriate expertise.

Depreciation of Immovable Property

Article 166

The appraisal of the immovable property takes into account the depreciation of its value due to the fact that specific rights remain thereon even after the sale.

Conclusion on Determination of Value of Immovable Property

Article 167

The value of immovable property is determined by conclusion.

Discontinuation of Enforcement Proceedings due to Lack of Coverage

Article 168

Any person entitled to satisfaction from the immovable property, where such person enjoys higher priority in satisfaction than the enforcement creditor whose annotation of the writ of execution is oldest, may motion for discontinuation of the enforcement proceedings if the appraised value of the immovable property does not cover the claim of the enforcement creditor.

The motion for discontinuation of the enforcement proceedings is filed within eight days from the day the conclusion on determining the value of the immovable property was adopted.

Eligibility of Buyers

Article 169

The following persons may not be buyers of the immovable property, either at the public auction or by direct agreement: the enforcement debtor, the public enforcement officer, deputy public enforcement officer, assistant public enforcement officer or other person employed by the public enforcement officer, any other person participating in the proceedings in official capacity, the person who is their lineal blood relative, or a collateral blood relative up to the fourth degree of consanguinity, spouse, civil union partner, in-law relative up to the second degree of consanguinity, or guardian, adoptive parent, adoptee or foster parent.

Pre-Emptive Right

Article 170

The holder of statutory pre-emptive right on immovable property has priority over the preferred bidder, if he, immediately after the declaration of the preferred bidder, but prior to the adoption of the conclusion on awarding the immovable property, states that he buys the immovable property under the same conditions as the preferred bidder.

The holder of contractual pre-emptive right on immovable property, which is recorded in the cadastre of immovable property, exercises this right in the same manner as the holder of a statutory pre-emptive right, if there is no statutory pre-emptive right or the right exists but has not been

exercised.

If the immovable property is sold through direct agreement, the public enforcement officer invites the holder of a statutory pre-emptive right, and the holder of a contractual preemptive right recorded in the cadastre of immovable property, to declare in writing within the term of eight days whether they intend to exercise their right under the conditions stipulated in the conclusion on awarding the immovable property by direct agreement.

Holders of the pre-emptive right deposit a security in the same manner as other persons.

2. Sale of Immovable Property

a) Manner of Sale of Immovable Property

Article 171

Immovable property is sold by oral public auction or direct agreement.

Public enforcement officer may determine only the sale by public auction.

Parties may agree on sale by direct agreement.

b) Sale of Immovable Property in Public Auction

Adopting the Conclusion on Sale of Immovable Property in Public Auction

Article 172

The conclusion on sale of immovable property in public auction is adopted immediately after the writ of execution has become final.

Contents of the Conclusion on Sale of Immovable Property in by Public Auction

Article 173

The conclusion primarily determines the conditions of sale in public auction, and from when and how the immovable property may be sold by direct agreement between the parties.

The immovable property sale conditions primarily include:

- 1) Detailed description of the immovable property and appurtenances thereto,
- 2) Designation whether the immovable property is free from persons and objects, or whether the enforcement debtor resides in the immovable property with his or her family or any other direct possessor of immovable property;
- 3) Rights of third parties remaining on the immovable property after the sale thereof;
- 4) Real estate and personal easements and real estate encumbrances taken over by the buyer;
- 5) Appraisal of the immovable property and the date of appraisal;
- 6) Time and place of the first public auction and the opening price of the immovable property in the first public auction;
- 7) Deadline within which the buyer shall deposit the sale price;
- 8) Amount of security to be deposited, the deadline within which it has to be deposited and to whom it is deposited.

The deadline for payment of the purchase price may not be longer than 15 days from the day of

rendering of the conclusion on awarding the immovable property.

The conditions of sale also state that the immovable property may be awarded to the buyer who was not declared as the preferred bidder in the public auction (Article 192, paragraph 2).

Publishing and Serving the Conclusion on Sale of Immovable Property in Public Auction

Article 174

The conclusion on the sale of immovable property by public auction is published on the bulletin board of the Chamber and in other usual manner.

A party may publish the conclusion in public media at his own expense, and inform the real estate agents thereof.

The conclusion on the sale of immovable property by public auction is served on the parties, pledge creditors, participants in the proceedings, holder of statutory pre-emptive right, and holder of contractual pre-emptive right to the immovable property that is recorded in the cadastre of immovable property.

Public auction is held in the office of the public enforcement officer, unless he she determines otherwise.

Depositing Security for Participation in Public Auction

Article 175

Only persons that deposited the security up until the announcement of the public auction are entitled to participate in the public auction as bidders.

The security amounts to one tenth of the appraised value of the immovable property.

The enforcement creditor and the pledge creditor do not deposit the security if their claims reach the amount of security and if, with respect to their order of satisfaction and the appraised value of the immovable property, the amount of security could be satisfied from the sale price.

Public Auction with Single Bidder

Article 176

Public auction is conducted even if only one person who deposited the security is present, who does not contest that he may be the possible bidder, even if he does not place the bid (single bidder).

Upon the motion of the enforcement creditor which is filed prior to the announcement of the public auction, the public enforcement officer may delay the public auction in this case.

If a single bidder attends the public auction but fails to submit a bid, the public enforcement officer declares the public auction unsuccessful.

First and Second Public Auction

Article 177

Maximum two public auctions are held.

The first public auction is held within the term that may neither be shorter than 15 nor longer than 30 days from the day of publishing of the conclusion on the sale of immovable property at the public auction on the bulletin board of the Chamber.

If the immovable property is not sold at the first public auction, the public enforcement officer declares it unsuccessful and immediately schedules the second public auction.

The second public auction must start within the period that may neither be shorter than 15 nor longer than 30 days from the day of the first public auction.

Sale Price at Public Auction

Article 178

The immovable property may not be sold at the first public auction for less than 70% of its appraised value (opening price).

In the second public auction, it may not be sold for less than 50% of its appraised value (opening price).

At the joint motion of parties or the enforcement creditor, the public enforcement officer shall determine that the opening price in the first public auction is higher than 70% of the appraised value of the immovable property.

Course of Public Auction

Article 179

Prior to the start of the public auction, the fulfillment of requirements for public auction are checked.

The public auction starts by announcement of the public auction, followed by reading of the opening price and invitation to the participants to submit their bids.

The bidder shall offer the price higher than the price offered by the previous bidder. No bidder may offer the price that is lower than the opening price.

Bidder is bound by his bid until the bid containing the higher price has been submitted.

The public bidding is concluded when after the double invitation of the public enforcement officer no bidder has offered the higher price.

Minutes of the public auction are kept.

Conclusion on Awarding Immovable Property

Article 180

Upon concluding the public auction, the public enforcement officer examines the validity of bids, announces the preferred bidder, and after a possible statement on exercising the pre-emptive right, adopts the conclusion on awarding the immovable property.

The preferred bidder is the bidder who offered the highest price.

Contents of Conclusion on Awarding Immovable Property

Article 181

The conclusion on awarding the immovable property contains, inter alia, the first name and family name or the business name of the first three preferred bidders.

The conclusion states that the immovable property shall be awarded to the bidder who offered the price directly below the price of the preferred bidder (the second ranked bidder) or to the bidder who offered the price directly below the price of the second ranked bidder (the third ranked bidder), if the preferred bidder and the second ranked bidder fail to pay the offered price within the term stipulated in the conclusion on the sale of the immovable property. They are also stated in the conclusion if the holder of the pre-emptive right declared that he is buying the immovable property under the

same conditions as the preferred bidder.

The conclusion is published on the bulletin board of the Chamber and served on all parties that received the conclusion on the sale of immovable property by public auction, as well as on the bidders at the public auction.

Returning and Retaining Security Deposited in Public Auction

Article 182

Security is returned to the bidders whose bid is not valid or accepted, immediately after the conclusion of the public auction.

The security is returned to the second and the third ranked bidders when the preferred bidder pays the offered price within the set deadline, and also to the third ranked bidder when the second ranked bidder pays the offered price within the set deadline. The security of the bidder who failed to pay the offered price shall be used to cover the costs of the public auction and the difference between the price he offered and the paid price.

If the first three bidders fail to pay the offered price within the set deadline, their securities are used to cover the costs of the second public auction and the difference between the prices reached in the first and the second public auction.

This also applies if the holder of the pre-emptive right declares that he buys the immovable property under the sale conditions as the preferred bidder.

Unsuccessful Public Auction

Article 183

The public auction is unsuccessful if there are no bidders, if no bidder places a bid or if no sale price is offered that is equal to or higher than the opening price within ten minutes from the start of the public auction, and if no bids are valid.

The public auction is also unsuccessful if the first three bidders from the list provided in the conclusion on awarding the immovable property fail to pay their respective offered prices within the deadline.

The public enforcement officer adopts a conclusion to declare the public auction unsuccessful.

Enforcement Creditor's Right of Choice after Unsuccessful Second Public Auction

Article 184

If the second public auction is unsuccessful, the public enforcement officer immediately invites the enforcement creditor to make a choice within the term of 15 days between the settlement by sale of the immovable property by direct agreement or by transfer of ownership rights over the immovable property.

The enforcement proceedings are discontinued if the enforcement creditor misses the deadline for making choice.

c) Sale of Immovable Property by Direct Agreement

Cases of Sale of Immovable Property by Direct Agreement

Article 185

Immovable property may be sold by direct agreement if the parties make such arrangement or if in case of unsuccessful second auction the enforcement creditor makes such choice (Article 184, paragraph 1).

The contract on sale of the immovable property by direct agreement is concluded in writing by the buyer and the public enforcement officer, in the name and for the account of the enforcement debtor, or a person performing the activity of commissioned sale, in his name but for the account of the enforcement debtor. The contract is delivered to the tax authority and the unit of local government, according to the location of the immovable property.

The buyer deposits the security, in the amount of the one tenth of the appraised value of the immovable property, immediately prior to conclusion of the sale contract.

The arrangement on the sale of the immovable property by direct agreement, and the contract on sale by direct agreement are not subject to solemnization by the notary public.

Until When Parties May Make Arrangements on Sale of Immovable Property by Direct Agreement

Article 186

The arrangement of the parties with respect to the sale of immovable property by direct agreement is possible within a time-frame from the publishing of the conclusion on the sale of immovable property by public auction, until the adoption of the conclusion on awarding the immovable property after the public auction, or adopting the conclusion to declare the second public auction unsuccessful.

The arrangement is not permitted in the course of the public auction, and if the immovable property is sold at the first public auction - until it has been established as unsuccessful although the object was sold (Article 183, paragraph 2). Thereafter, the arrangement is permitted again, until the start of the second public auction.

By arrangement, the parties set the deadline for signing the contract on sale of immovable property by direct agreement and the sale price, which may not be less than 70% of the appraised value of the immovable property, and may also specify other conditions.

Conclusion on Sale of Immovable Property by Direct Agreement upon Arrangement between Parties. Conclusion on Awarding Immovable Property

Article 187

Immediately upon the arrangement between the parties, the conclusion is adopted on the sale of the immovable property by direct agreement, upon the arrangement between the parties, which sets also the deadline for signing the contract and the time period for paying the sale price. The provisions on the conclusion on the sale of immovable property by public auction apply *mutatis mutandis* to the contents, publishing and serving of the conclusion.

The sale contract may be concluded within the term of 20 days from the day of publishing of the conclusion on the sale of immovable property by direct agreement upon arrangement between the parties, while the deadline for paying the price may not be longer than 15 days from the day of adopting the conclusion on awarding the immovable property.

The conclusion on awarding the immovable property is adopted immediately after conclusion of the contract on sale, after the public enforcement officer establishes that the contract fulfills all conditions from the conclusion on the sale of immovable property by direct agreement upon the

arrangement between the parties, and other conditions necessary for its validity.

Amendments to Parties' Arrangement. Waiving the Arrangement and Consequences of Waiver

Article 188

If the contract is not signed within the deadline set by the conclusion on the sale of immovable property by direct agreement upon the arrangement between the parties, the parties may amend the arrangement within the next three days and thus decrease the sale price to 50% of the appraised value of the immovable property and extend the deadline for concluding the contract.

In this case, the public enforcement officer immediately adopts a new conclusion on the sale of immovable property by direct agreement upon the arrangement between the parties, which shall, *inter alia*, stipulate that the contract may be concluded within the term of 10 days from the day of publishing of the new conclusion, and that the deadline for payment of the sale price may not be longer than 10 days from the day of rendering of the conclusion on awarding the immovable property.

If a party waives the arrangement in writing, or the parties fail to amend the arrangement within the deadline, or the contract is not concluded within the deadline, or the sale price is not paid within the deadline - the public enforcement officer determines that the immovable property was not sold by direct agreement upon the arrangement between the parties, and continues the enforcement proceedings in the state in which such proceedings was at the time the parties made the arrangement on sale by direct agreement.

Sale of Immovable Property by Direct Agreement Opted by Enforcement Creditor

Article 189

The conclusion on the sale of immovable property by direct agreement opted by the enforcement creditor is adopted immediately after the enforcement creditor selects this option of satisfaction. The conclusion also determines the deadline for signing the sale contract, opening price for the immovable property and the deadline for payment of the sale price. Provisions on the conclusion on the sale of immovable property by public auction apply *mutatis mutandis* to the contents, publishing and serving of the conclusion.

Sale contract may be concluded within the term of 30 days from the day of publishing of the conclusion on sale of the immovable property by direct agreement opted by the enforcement creditor. The price of the immovable property is agreed upon freely, and the deadline for payment of the price may not be longer than 15 days from the day of adoption of the conclusion on awarding the immovable property.

If the immovable property is sold by direct agreement, the enforcement creditor is deemed satisfied in the amount of the reached price, but if the price is lower than 30% of the appraised value of the immovable property, he is deemed satisfied in the amount equal to 30% of the appraised value of the immovable property.

The conclusion on awarding the immovable property is adopted immediately after the conclusion of the sale contract.

d) Settlement by Transfer of Ownership Right over Immovable Property

Cases of Settlement by Transfer of Ownership Right

Article 190

If the contract on the sale of immovable property by direct agreement opted by the enforcement

creditor is not concluded within the deadline specified by the conclusion on the sale of immovable property by direct agreement opted by the enforcement creditor, or if the price is not paid within the set deadline, the public enforcement officer determines that the immovable property was not sold by direct agreement opted by the enforcement creditor.

The enforcement creditor is invited to request, within the term of eight days, the satisfaction by transfer of ownership right over the immovable property, and in case he misses the deadline, the enforcement proceedings is discontinued.

The creditor is satisfied by transfer of ownership right over the immovable property also in case when after unsuccessful public auction he opts to be satisfied by transfer of ownership right over the immovable property (Article 184, paragraph 1).

Depositing the Settlement Amount

Article 191

A conclusion is adopted on the transfer of the ownership right over the immovable property.

The conclusion, *inter alia*, compels the enforcement creditor to deposit within a specified term the pecuniary amount necessary to satisfy other persons entitled to satisfaction.

If the enforcement creditor deposits such pecuniary amount within the deadline, a conclusion on surrender of the immovable property is adopted, and if he fails to do so, the enforcement proceedings are discontinued.

The enforcement creditor, to whom the ownership right over the immovable property was transferred, is deemed satisfied in the amount of 50% of the appraised value of the immovable property, decreased for the pecuniary amount he deposited for satisfaction of other persons entitled to satisfaction.

If even after such decrease the remaining sum exceeds his claim, he pays the difference to the enforcement debtor within the deadline set by the public enforcement officer, otherwise the conclusion on surrender of the immovable property is revoked.

e) Other Provisions on Sale of Immovable Property

Payment of Sale Price

Article 192

The buyer shall pay the sale price within the deadline determined in the conclusion on sale of the immovable property.

If the preferred bidder at the public auction fails to pay the offered price within the deadline, a conclusion is adopted to declare that the sale has no effect towards him, and the immovable property is awarded to the second ranked bidder, and the deadline for payment of the offered price is set. If neither he pays the price within the deadline, a conclusion is adopted to declare that the sale has no effect towards him, and the immovable property is awarded to the third ranked bidder, and the deadline for payment of the offered price is set. The same applies also if the holder of the pre-emptive right declared that he buys the immovable property under the same conditions as the preferred bidder.

If neither the third ranked bidder pays the price within the deadline, the public enforcement officer determines that the public auction was unsuccessful.

If the buyer is the enforcement creditor whose claim does not reach the amount of the sale price, and if, given his order of priority, he may be satisfied from the price, he pays only the difference between the claim and the sale price.

Conclusion on Surrender of Immovable Property to Buyer

Article 193

Conclusion on surrender of the immovable property to the buyer is adopted immediately after the payment of the sale price and is served on all parties that are served the conclusion on the sale of immovable property by public auction, i.e. by direct agreement, as well as on the tax authority and the unit of local government, according to the location of the immovable property.

Conclusion on surrender of the immovable property contains the order to the actual holder of the immovable property to transfer the possession of the immovable property to the buyer within a specified term, the time when the buyer acquires the possession of the immovable property, the declaration on termination of the pledge rights, the real estate easements and real estate encumbrances that cease by sale of immovable property, the order to enter the buyer's acquisition of the ownership right over the immovable property in the cadastre of immovable property, as well as the order to erase from the cadastre of immovable property the rights and encumbrances that ceased by purchase or which the buyer had not assumed.

If the motion for eliminating irregularities in implementation of enforcement is filed against the conclusion on surrender of immovable property, a writ on adopting the motion has only the effect of grounds for compensation of damages.

Acquisition of Possession by the Buyer

Article 194

Actual holder of the immovable property surrenders the possession to the buyer within the deadline set in the conclusion on surrender of the immovable property, unless the law or arrangement with the buyer stipulates otherwise.

If the immovable property was and remains in possession of another person or the enforcement debtor, the buyer acquires the possession upon adoption of the conclusion on surrender of the immovable property.

Eviction of Actual Possessors of Immovable Property

Article 195

If the actual possessor of the immovable property fails to surrender the possession of the immovable property to the buyer within the deadline stipulated in the conclusion on surrender of the immovable property, the public enforcement officer, at the motion of the buyer, adopts the conclusion which is implemented according to the provisions on enforcement for vacation and surrender of the immovable property (Art. 354-358).

Forced eviction may not be carried out against holders of personal easements that are not terminated by sale of the immovable property, tenants whose lease contracts are not terminated by sale of immovable property, and indefinite period apartment leaseholders who entered into lease under the law regulating housing.

3. Settlement

Commencement of Settlement

Article 196

The settlement commences immediately after the adoption of the conclusion on surrender of the immovable property to the buyer.

A conclusion on settlement is adopted.

The public enforcement officer shall, within the term of 30 days from the day of adopting the conclusion on settlement, transfer the funds generated by sale of the immovable property from his special purpose account to the accounts of the persons being satisfied.

Conclusion on Settlement

Article 197

A conclusion on settlement is based on the state of the facts from the case files, cadastre of immovable property and other public records.

Only claims stated in the writ of execution that has become final prior to adoption of the conclusion on settlement are thereby taken into account.

The claims stated in the writ of execution that has not become final prior to the date of the conclusion on settlement, is settled after the writ of execution becomes final, from the sale proceeds that may remain.

The rest of the price is given to the enforcement debtor.

Who is Satisfied from the Sale Price and How

Article 198

The following persons are satisfied from the sale price: the enforcement creditor whose annotation of the writ of execution is the oldest, the enforcement creditors that accessed the enforcement proceedings, pledge creditors and persons entitled to compensation due to termination of personal easements and real estate encumbrances by sale of the immovable property, if they submitted their compensation claims until the adoption of the conclusion on settlement.

Settlement Priority

Article 199

The sale price is used to settle, in the following order of priority:

- 1) Costs of the enforcement proceedings that are reported until the adoption of the conclusion on settlement;
- 2) Claims based on statutory maintenance being proven by enforcement document and applied for until the adoption of the conclusion on awarding the immovable property.

Claims based on statutory maintenance are settled only if the sale price is not fully exhausted in settlement of the costs of enforcement proceedings.

If all the costs of enforcement proceedings may not be fully settled, they are settled proportionally to their respective amounts, and this applies also to claims based on statutory maintenance.

Order of Settlement of Other Claims

Article 200

After the settlement of claims with the priority order of settlement, other claims are classified in three settlement orders:

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

Settling of the next settlement order starts when the creditors from the previous order have been satisfied in full.

If the sale price is not sufficient to satisfy all creditors from the same settlement order, they are satisfied according to the order of acquiring the settlement right, and if they acquired the settlement right simultaneously, they are satisfied in proportion to the amount of their claims.

Pledge creditors acquire the right to settlement according to the time of acquiring of the right of pledge, the creditors of the compensation for termination of personal easement and real estate encumbrances according to the time of entering of the personal easement and real estate encumbrances into the cadastre of immovable property, and enforcement creditors according to the time of entry of annotation of their respective writ of execution into the cadastre of immovable property.

The costs awarded in the enforcement document have the same order of settlement as the principal claim, which also applies to the interest prescribed by the law that regulates the mortgage.

Compensation Amount for Personal Easements and Real Encumbrances

Article 201

If the persons, who are entitled to the compensation due to termination of personal easements and real estate encumbrances after the sale of the immovable property, and the enforcement creditors do not agree in writing on the amount of compensation prior to the adoption of the conclusion on settlement, the compensation is determined by the public enforcement officer.

In this, he primarily takes into account the time frame in which the personal easement or real estate encumbrance would still be in effect, their value and the age of their holders.

The buyer of the immovable property and the holder of a personal easement or real estate encumbrance may agree in writing, until the expiry of the deadline for payment of the sale price, that the buyer assumes the personal easement or real estate encumbrance, and that the amount of compensation paid for the assumption is deducted from the sale price.

Contesting of Claims

Article 202

A person that is satisfied from the sale price may contest the claim of another person, its amount and the order of settlement, by giving statement to the public enforcement officer, in writing or verbally to be included in the record, if that improves his prospects for satisfaction.

Contesting is possible up until the adoption of the conclusion on settlement.

Instruction to Initiate Civil Lawsuit after Contesting the Claim

Article 203

The public enforcement officer either renders a writ to decide on the contesting motion or adopts a conclusion to instruct the contesting party to initiate a civil lawsuit within the term of 15 days.

The public enforcement officer decides on contesting motion if the parties have no disputed facts, or if contesting motion is evidenced by a final decision or an official or a legally certified document. The appeal against the writ is not permitted.

If he accepts the contesting motion, the public enforcement officer adopts a conclusion to instruct the person whose claim was contested to initiate civil lawsuit within the term of 15 days from the day the contesting motion was accepted. If he does not accept the contesting motion, the public enforcement officer adopts a conclusion to instruct the contesting party to initiate civil lawsuit within the term of 15 days from the day the contesting motion was not accepted.

The amount of the contested claim is paid into the deposit of the public enforcement officer.

If the party who was instructed to initiate the civil lawsuit fails to do so within the term prescribed by the public enforcement officer, it is deemed that such party did not contest the claim, i.e. that such party waived the settlement of claim in the enforcement proceedings.

This is without prejudice to the right of the party who was instructed to initiate the civil lawsuit, to initiate the civil lawsuit after the completion of the enforcement proceedings against the person whose claim was contested, i.e. the person who contested the claim.

The judgment passed in the civil lawsuit regarding the contested claim has the effect on the enforcement debtor and all creditors.

Depositing Security

Article 204

The public enforcement officer may, at the motion of the person whose claim is contested, condition the adjournment of the conclusion on settlement and the settlement of the contested claim with depositing security for the damages such person may suffer due to adjournment of settlement.

If a person that contested the claim fails to deposit security within the deadline set by the public enforcement officer, it is deemed that such person did not contest the claim.

A person whose claim was unjustifiably contested and who consequently suffers damages is entitled to compensation from the deposited security.

4. Special Provisions on Settlement of Specific Claims

Non-matured Claim of Enforcement Creditor

Article 205

A claim of the enforcement creditor that has not matured up to the adoption of the conclusion on settlement is set aside and deposited with the public enforcement officer, and settled according to maturity dates.

Nevertheless, the enforcement creditor may request to be satisfied prior to the maturity of the claim, based on the conclusion on settlement, according to the settlement order of enforcement creditors.

In this case, the claim of the enforcement creditor for which the interest was not contracted, is settled by deducting from the principal debt the amount corresponding to the penalty interest calculated from the date of the conclusion on settlement up to the maturity date of the claim, while the claim of the enforcement creditor for which the interest was contracted, is settled together with the contracted interest calculated up to the date of the rendering of the conclusion on awarding the immovable property.

Non-matured Claim on Specific Periodic Payments

Article 206

Claims on periodic income on the basis of the compensation for health impairment, annuity for complete or partial loss of working capacity, and annuity for maintenance that is lost due to death of maintenance provider, which are secured by a pledge, and which become mature after the rendering of the conclusion on settlement, are settled prior to maturity date only at the request of the creditor, according to the order of satisfaction of pledge creditors.

The creditor may request settlement until the conclusion on settlement is rendered.

The amount of claims on periodic payment is calculated in the same manner as the amount of compensation for personal easements and real estate encumbrances.

Conditioned Claim

Article 207

The claim secured by the right of pledge that is subject to a condition which is to occur or is not to occur after the rendering of the conclusion on settlement, is set aside and deposited with the public enforcement officer. Also set aside and deposited with the public enforcement officer is the claim of the creditor whose right of pledge was not entered in the cadastre of immovable property although the application for registration of the right of pledge was submitted prior to the application for entering of the oldest annotation of the writ of execution, provided that the entry of the right of pledge has the effect of the occurrence of the suspensive condition.

Both claims are settled when the suspensive condition occurs, or when it becomes certain that the termination condition shall not occur, even without the enforcement creditor's request, according to the order of settlement of enforcement creditors.

If the suspensive condition does not occur or the termination condition occurs, the amount that was set aside is used to satisfy the enforcement creditors whose claims have not been settled at all or not fully settled, and if there are no such creditors or if the amount that was set aside is not exhausted after their satisfaction, the entire amount or the rest of it is handed over to the enforcement debtor.

Prenotation of Right of Pledge and Annotation of Litigation Initiation

Article 208

If a person, in whose favor the prenotation of the right of pledge was entered in the cadastre of immovable property prior to the entry of the oldest annotation of the writ of execution on the immovable property, proves that a procedure for justifying the prenotation is ongoing, or that the deadline for initiating such procedure has not yet expired, the claim to which the prenotation relates is settled in the same way as the claim subject to suspensive condition.

A claim, with respect to which the annotation was entered into the cadastre of immovable property regarding the civil lawsuit for deletion of the right of pledge or annotation of civil lawsuit regarding the grounds for entering the right of pledge, is settled in the same way as the claim subject to termination condition.

5. Special Provisions on Enforcement Proceedings on Immovable Property not entered into the Cadastre of Immovable Property

Proving Ownership over Immovable Property by Enforcement Debtor

Article 209

If the immovable property has not been entered into the cadastre of immovable property, the enforcement creditor shall enclose with the motion for enforcement the documents that are appropriate as the base for entering in the cadastre of immovable property the ownership over the immovable property in favor of the enforcement debtor. The court shall deliver without delay the submitted document to the authority in charge of the cadastre of immovable property and to stay the proceedings until the ownership of the enforcement debtor has been recorded.

If the motion for enforcement specifies as the subject of enforcement the immovable property, or a part thereof, which are not entered in the cadastre of immovable property are for which the ownership may not be registered, the enforcement creditor gives a statement that the registration of ownership is not possible and encloses it with the motion for enforcement. In this case, the court renders the writ of execution on immovable property that is in unregistered ownership of the enforcement debtor, provided that the enforcement creditor submits with or indicates in the motion

for enforcement, as the proof of unregistered ownership, the building permit issued in the name of the enforcement debtor, or if such document does not exist or is not issued in the name of the enforcement debtor - other documents which evidence unregistered ownership of the enforcement debtor.

At the motion of the enforcement creditor, the court orders the enforcement debtor or other person to deliver the documents which evidence unregistered ownership of the enforcement debtor, under the threat of imposing a fine.

Inventory of Immovable Property

Article 210

After the court renders the writ on execution on the unregistered immovable property owned by the enforcement debtor, in the part of the conclusion on the sale of the immovable property that stipulates the sale conditions, the public enforcement officer states in particular that the immovable property is in unregistered ownership, after which it is entered into the inventory list.

The inventory of the immovable property is carried out by the public enforcement officer at the inventory meeting, to which the following parties are invited: the enforcement creditor, the enforcement debtor, persons whose immovable property borders with the immovable property and the direct holder of the immovable property if that is not the enforcement debtor.

The minutes on the inventory of the immovable property, determined to be in the ownership of the enforcement debtor, have the effect of the entry of the annotation of the writ of execution in the cadastre of immovable property and is published on the bulletin board of the Chamber.

6. Special Provisions on Joint Sale of Immovable Property and Movable Assets

Territorial Jurisdiction

Article 211

For deciding on the motion for enforcement and for implementation of the enforcement for settlement of the monetary claim by joint sale of immovable property and movable assets, the exclusive territorial jurisdiction is vested in the court in whose territory the immovable property is located.

Writ of Execution and Concept of Joint Sale

Article 212

The writ of execution determines that the immovable properties and movable assets are jointly sold if the movable assets are located on or in the immovable property or if they are functionally connected with the immovable property.

Joint sale is reflected in the fact that the immovable properties and movable assets are sold at the same sale, jointly and at one total price, so that the purchase of immovable property is conditioned by the prior purchase of movable assets and vice versa.

Manner of Joint Sale

Article 213

Immovable properties and movable assets are sold exclusively at the public auction, upon prior appraisal of their collective value and adoption of the conclusion on the joint sale of immovable properties and movable assets at the public auction.

Joint sale shall be regulated by *mutatis mutandis* application of the provisions on the eligibility of buyer (Article 169), publishing and serving the conclusion on the sale of immovable property by public auction (Article 174), depositing security for participation in the public auction (Article 175), public auction with single bidder (Article 176), the first and the second public auction (Article 177), sale price at the public auction (Article 178), course of the public auction (Article 179), the conclusion and the contents of the conclusion on awarding the immovable property (Art. 180 and 181), returning and retaining security deposited in the public auction (Article 182) and unsuccessful public auction (Article 183).

If the second public auction is also unsuccessful, the enforcement proceedings are divided into proceedings for sale of immovable properties and proceedings for sale of movable assets.

Separate Settlement

Article 214

After the buyer pays the total sale price within the deadline stipulated in the conclusion on the joint sale of objects, the permanent court expert determines which portion of the total price pertains to the purchase of the immovable property and which portion pertains to the purchase of movable assets, and the settlement of the enforcement creditors and other persons entitled to settlement is carried out separately for the immovable property and movable assets.

Both settlement proceedings are carried out by the same judge.

Joining of Procedures

Article 215

If one or more public enforcement officers are conducting one or multiple enforcement proceedings for settlement of monetary claim by sale of immovable properties and movable assets which meet the conditions for joint sale, the court, at the motion of the enforcement creditor or ex officio, adopts the conclusion on joining of the procedures and on joint sale of the immovable properties and movable assets, and continues to implement the enforcement.

The conclusion on joining of the procedures may be adopted no later than until the publishing of the conclusion on the sale of the immovable properties or movable assets, depending on which conclusion was published earlier.

Mutatis Mutandis Application

Article 216

All other issues shall be regulated by *mutatis mutandis* application of the provisions on enforcement for settlement of monetary claim by sale of immovable property or movable assets.

Chapter Two

ENFORCEMENT ON MOVABLE ASSETS

1. General Rules

Territorial Jurisdiction

Article 217

The territorial jurisdiction for deciding on the motion for enforcement for settlement of monetary claim against movable assets is vested in the court in whose territory the movable assets are located.

If the movable assets are located in the territory of multiple courts, the territorial jurisdiction is vested in the court that was the first to receive the motion for enforcement.

Exemption from Enforcement

Article 218

The following shall be exempt from enforcement:

- 1) Clothes, shoes, and other items of personal use, bed linen, dishes, furniture necessary to the enforcement debtor and the members of his household, stove, refrigerator and heating furnace;
- 2) Food and heating needed by the enforcement debtor and his household members for a period of three months;
- 3) Cash of the enforcement debtor with permanent monthly income up to the monthly amount legally exempted from enforcement, in proportion to time until the next income;
- 4) Decorations, medals, commemorative medals and other decorations and awards, personal correspondence, manuscripts and other personal documents and family pictures of the enforcement debtor;
- 5) Orthopedic devices necessary for performing vital functions of a disabled person or other handicapped person;
- 6) Pet.

Enforcement Actions

Article 219

Enforcement of monetary claim against movable assets is implemented by inventory and appraisal of assets, sale of assets and satisfaction of the enforcement creditor from the sale price.

Appraisal of assets may be separated from the inventory, if due to special value of the asset it is not possible to conduct appraisal of the asset at the same time with the inventory.

2. Inventory and Appraisal of Movable Assets

Serving of Writ of Execution. Notice of Inventory of Movable Assets

Article 220

The writ of execution is served on the enforcement debtor immediately prior to the commencement of inventory, so he is requested to settle the claim with interest and costs of the enforcement

proceedings.

The writ that could not be served on the enforcement debtor in the course of the inventory is delivered by its posting at the inventory site.

The enforcement creditor is informed of the place and time of the inventory, and warned that the asset is going to be inventoried even in his absence.

Absence of the parties is not an obstacle to the inventory of the asset.

An absent party from the inventory is informed that the inventory has been carried out.

Subject of Inventory

Article 221

The assets in possession of the enforcement debtor, and the assets owned by the enforcement debtor are inventoried, as well as the assets in possession of the enforcement creditor or other person.

The assets, for which a third party filed an objection claiming to have a right over them that prevents the enforcement, are also inventoried.

Scope of Inventory

Article 222

As many assets as are necessary for settlement of the enforcement creditor and the costs of enforcement are inventoried, regardless of whether the writ of execution specifies the assets that are subjects of enforcement.

Primarily, the assets that can be sold in the easiest manner, assets where objection regarding the rights preventing enforcement have not been filed by a third party, and assets that are not perishable or subject to considerable depreciation of value, are inventoried.

Prohibition of Disposal of Inventoried Assets

Article 223

The enforcement debtor and persons having the possession or seizing on the inventoried assets shall not be entitled to legal or factual disposal thereof.

Violation of the prohibition of disposal entails the absence of the effect of the disposal action in the enforcement proceedings in which it was generated.

The prohibition of disposal and the criminal consequences of its violation are stipulated in the writ of execution.

Record of Inventory. Effect of Inventory

Article 224

A record is made of the inventory.

The inventory record is the grounds for the enforcement creditor to register the right of pledge on inventoried items.

Amendments to Inventory

Article 225

The enforcement creditor may, within the term of eight days from the day of completion of the inventory, file a motion for the amendments of the inventory.

The public enforcement officer shall decide on the motion within the term of five days from the receipt thereof.

If the inventory is amended, a conclusion on the final inventory is adopted.

The conclusion on the final inventory is the grounds for the enforcement creditor to register the right of pledge on assets recorded in the inventory only in the conclusion on the final inventory.

Publishing of the Inventory

Article 226

The record of the inventory and the conclusion on the final inventory is served on the enforcement creditor and posted in a visible place in the premises where the inventoried asset is located at the time of the inventory.

Inventoried items assets that are left to the enforcement debtor for safekeeping are visibly marked as being inventoried.

The person who removes the copy of the record of the inventory, the conclusion on the final inventory or the mark that the assets were inventoried, is fined.

Delivery of Data for Registration of the Right of Pledge

Article 227

The enforcement creditor submits the original or a certified copy of the inventory record and the conclusion on the final inventory to the Serbian Business Registers Agency, for registration of the right of pledge in the Pledge Register.

Furthermore, the enforcement creditor also submits to the Serbian Business Registers Agency the motion for enforcement and the writ of execution, as well as the data stipulated by the regulations pertaining to the registration of the right of pledge on movable assets in the Pledge Register.

Acquiring the Right of Pledge on Inventoried Asset and the Right of Settlement

Article 228

The enforcement creditor acquires the right of pledge on the inventoried asset in the moment of the entry of the right of pledge in the Pledge Register, when he also acquires the right of settlement on the movable asset.

When the right of pledge has been entered on the same asset in favor of multiple enforcement creditors, the order of acquiring the right of settlement is determined according to the time of receipt (day, hour and minute) of the entry application in the Pledge Register.

When the time of the receipt of the entry application in the Pledge Register is the same for multiple enforcement creditors, the order of acquiring the right of settlement is determined according to the day when the motions for enforcement were filed, and if they were filed on the same day, all enforcement creditors have the same order of settlement.

Safekeeping of Inventoried Assets

Article 229

Inventoried assets are surrendered for safekeeping to the enforcement debtor, or the enforcement creditor, or another person that already has the possession of the asset.

Cash, securities and valuables are deposited with the public enforcement officer or a person who performs the activity of commissioned sale.

Other items of higher value, that are appropriate for safekeeping, are also deposited with the public enforcement officer or a person who performs the activity of commissioned sale.

Change of Keeper of Inventoried Assets

Article 230

On the motion of the enforcement creditor that is permitted until the adoption of the conclusion on awarding the assets, the public enforcement officer may seize the items from the enforcement debtor and surrender them for safekeeping to the enforcement creditor or another person designated by the enforcement creditor.

In that case, the costs of the safekeeping of the assets are covered in advance by the enforcement creditor or another person designated by him, the enforcement debtor compensates them for such expenses, and the risk of destruction or damage to the assets is borne by the enforcement creditor, except if they are resulting from a force majeure or an accident.

If destruction or damage to the assets cannot be attributed to a force majeure or an accident, it is deemed that the enforcement creditor has been satisfied up to the amount of the value of the asset that was destroyed, or up to the amount equal to the value of the damage.

The same applies also when the enforcement creditor is safekeeping the item, or if the public enforcement officer, on the motion of the enforcement creditor, orders that the item is to be surrendered to the person designated by the enforcement creditor as the keeper, instead of the enforcement creditor or another person.

Unsuccessful Inventory

Article 231

The inventory is deemed unsuccessful when no assets are found that can be the subject of enforcement.

The public enforcement officer shall inform the enforcement creditor thereof if he was not present at the inventory.

Enforcement Creditor's Right of Choice after Unsuccessful Inventory

Article 232

Within eight days from the day of receipt of the notice on unsuccessful inventory or from the unsuccessful inventory which he attended, the enforcement creditor may file a motion to the public enforcement officer either to repeat the inventory or to determine another instrument and subject of enforcement; otherwise the enforcement proceedings is discontinued within the next eight days.

The enforcement proceedings is also discontinued if the enforcement creditor files a timely motion for the repeated inventory, but again no assets that may be subjects of enforcement were found, within the term of eight days from the day of completion of the repeated inventory.

Appraisal of Items

Article 233

As a rule, assets are appraised at the same time when they are inventoried. The public enforcement officer appraises the assets.

An asset is appraised according to its market price in the location of appraisal and on the day of appraisal.

The public enforcement officer may appraise the asset on the bases of a written notice of the price obtained from the relevant organizations, institutions, or legal and natural persons that have appropriate expertise.

The enforcement creditor and the enforcement debtor may designate the value of the asset by agreement.

Record of Inventory and Appraisal

Article 234

When the inventory and the appraisal of the asset are carried out simultaneously, the record of inventory and appraisal is made.

The record states the name of the public enforcement officer who is conducting the inventory and appraisal of assets, the names of the parties and persons who attended the inventory and the appraisal, the number of the subjects of enforcement, date of inventory and appraisal, the amount and maturity date of the enforcement creditor's claim, information that in detail describe the inventoried assets and their appraised value, statements of the parties and participants in the proceedings, and objections of the third parties on existence of rights over the assets that prevent enforcement.

If the public enforcement officer determines that the asset is appraised after the inventory, and based on the written notice of the price, a separate record is made on the appraisal.

The enforcement creditor may publish the record on the inventory and the appraisal in the public information media, at his expense.

Note Instead of Inventory and Appraisal. Accession to Enforcement Proceedings

Article 235

A separate enforcement proceedings for satisfaction of another claim on the same asset may not be carried out after the inventory and appraisal of the asset.

If, after the inventory and appraisal of the asset, a new writ of execution is adopted for settlement of another claim against the inventoried and appraised assets, the asset is not inventoried and appraised again, but the data from the new writ of execution are only noted in the record of the inventory and appraisal.

This note is the grounds for a new enforcement creditor to register the right of pledge on the inventoried assets. He accesses the already initiated enforcement proceedings in the state in which such proceedings are at that time and may not take the procedural actions that were possible to be taken prior to the accession.

Accession to the enforcement proceedings is allowed until the adoption of the conclusion on awarding the asset to the buyer.

3. Sale of Movable Asset

a) Methods of Sale of Asset and Conclusion on Sale of Asset

Methods of Sale of Asset

Article 236

Assets may be sold at the oral public auction or by direct agreement.

The method of sale is determined in the conclusion on the sale of movable asset, and the public enforcement officer shall take care that the best price has been achieved.

Sale by public auction is chosen if the asset has a higher value or if it is expected to be sold at the price higher than the appraised value.

Notwithstanding the method of sale determined by the public enforcement officer, the parties may agree on sale of the asset by direct agreement.

Adopting the Conclusion on Sale of Movable Asset

Article 237

The conclusion on the sale of movable asset is adopted upon the writ of execution has become final, and the period from the publication of the conclusion on the Chamber's bulletin board until the first public auction may not be shorter than 15 or longer than 30 days.

Prior to that, assets may be sold if the parties come to an agreement or if the assets are perishable, or if there is a risk of significant depreciation of assets, and the enforcement creditor deposits security for the damages the enforcement debtor may suffer due to early sale.

Contents of Conclusion on Sale of Movable Asset

Article 238

The conclusion on sale of movable asset determines whether the asset is sold at the public auction or by direct agreement, the conditions of sale and from when and how the asset may be sold by direct agreement between the parties.

The asset sale conditions primarily include:

- 1) A more detailed description of the asset;
- 2) Appraised value of the asset and the date of appraisal;
- 3) Time and place of the first public auction and the opening price of the asset at the first public auction;
- 4) Deadline for signing the contract on sale by direct agreement and opening price of the asset;
- 5) Deadline within which the buyer shall pay the sale price;
- 6) Amount of security to be deposited, the deadline within which it has to be deposited and to whom.

The deadline for paying the sale price may not be longer than 15 days from the rendering of the conclusion on awarding the movable asset.

The conditions of sale also stipulate under which conditions the asset may be awarded to the buyer who was not declared the preferred bidder in the public auction (Article 241, paragraph 1).

Publishing and Serving the Conclusion on Sale of Movable Asset

Article 239

The conclusion on the sale of movable asset is published on the Chamber's bulletin board, and in other usual manner.

The conclusion is served on same persons as the conclusion on the sale of the immovable property at the public auction (Article 174, paragraph 3).

b) Sale by Public Auction

Contents of the Conclusion on Awarding the Asset after Public Auction

Article 240

The conclusion on awarding the asset contains the first name and family name or the business name of the bidders that offered price equal to or higher than the opening price, starting from the preferred bidder onwards.

The conclusion states that the asset shall be awarded to the second ranked bidder if the preferred bidder fails to pay the offered price within the deadline stipulated in the conclusion on the sale of the asset, or to the third ranked bidder if the second ranked bidder fails to pay the offered price within the deadline stipulated in the conclusion on the sale, and so forth until the last bidder from the list.

Payment of Sale Price after Public Auction

Article 241

If the preferred bidder at the public auction fails to pay the offered price within the deadline, a conclusion is adopted to declare that the sale has no effect towards him, and the asset is awarded to the second ranked bidder along with setting the deadline for payment of the offered price, and so forth, until the last bidder listed in the conclusion on awarding the asset.

If no bidder has paid the offered price within the deadline, the public enforcement officer determines that the public auction was unsuccessful.

Mutatis Mutandis Application of Provisions on Public Auction on Sale of Immovable Property

Article 242

The sale of movable asset at the public auction is regulated by application of the following provisions that govern the settlement of monetary claims on immovable property: depositing security for participation in the public auction (Article 175), public auction with single bidder (Article 176), the first and the second public auction (Article 177), sale price at the public auction (Article 178), the course of the public auction (Article 179), the conclusion on awarding the immovable property after the public auction (Article 180), publishing and serving the conclusion on awarding the immovable property (Article 181), returning and retaining security deposited in the public auction (Article 182) and unsuccessful public auction (Article 183).

c) Enforcement Creditor's Right of Choice after Unsuccessful Second Public Auction

Article 243

If the second public auction is unsuccessful, the public enforcement officer immediately invites the

enforcement creditor to decide within 15 days between the settlement by sale of the asset by direct agreement or transfer of the ownership rights over the asset.

The enforcement proceedings are discontinued if the enforcement creditor fails to comply with the deadline for making choice.

d) Sale of Asset by Direct Agreement

Cases of Sale of Asset by Direct Agreement

Article 244

Asset may be sold by direct agreement if that is stipulated in the conclusion on the sale of movable asset (Article 238), or if the parties agree so, or if in case of unsuccessful second public auction the enforcement creditor makes such choice (Article 243, paragraph 1).

The contract shall be concluded in writing by the same parties that conclude the contract on sale of the immovable property by direct agreement, and they forward it to the tax authority.

The agreement on the sale of the movable asset by direct agreement and the contract on sale are not subject to solemnization by the notary public.

Period in Which the Parties May Agree on Sale of Movable Asset by Direct Agreement

Article 245

If the conclusion on the sale of movable asset stipulates that the asset is sold public auction, the parties may agree on the sale of the asset by direct agreement within the same deadline as for the sale of the immovable property (Article 186, paras. 1 and 2).

If the conclusion on the sale of movable asset stipulates that the asset is sold by direct agreement, the parties may agree on the sale by direct agreement in the period from the publishing of the conclusion on the sale of movable asset, until the enforcement creditor chooses to be satisfied by transfer of the ownership right on the asset.

Provisions on the arrangement of the parties on the sale of the immovable property by direct agreement (Article 186, paragraph 3) apply to the contents of the parties' agreement.

Application of Provisions on Sale of Immovable Property by Direct Agreement upon Arrangement between Parties

Article 246

The provisions on the conclusion on the sale of the immovable property by direct agreement, upon arrangement of the parties (Article 187, paras. 1 and 2) apply to the contents of the conclusion on the sale of movable assets by direct agreement, upon arrangement of the parties, deadline for conclusion of the contract, deadline for payment of the sale price and publishing and serving the conclusion.

The conclusion on awarding the movable asset in this case is regulated by the provisions that govern the conclusion on awarding the immovable property (Article 187, paragraph 3).

The amendments to the arrangement of the parties on the sale of the movable asset by direct agreement, as well as the new arrangement, the powers of the public enforcement officer, case when it is determined that the immovable property is not sold by direct agreement upon the arrangement of the parties and the consequences arising therefrom, are regulated by the provisions on the amendments to the arrangement of the parties, the waiver of the arrangement by the parties, and the consequences of such waiver in the sale of immovable property (Article 188).

Sale of Asset by Direct Agreement in Other Cases

Article 247

When the asset is sold by direct agreement under the conclusion on the sale of movable asset (Article 236), the contract may be concluded within the term of 30 days from the day of the publishing of the conclusion, while the deadline for paying the price may not be longer than 15 days from the day of adopting the conclusion on awarding the asset.

When the asset is sold by direct agreement opted by the enforcement creditor, the provisions that are applicable in this case are the ones that apply to the settlement of the monetary claim on the immovable property (Article 189).

In both cases of the direct agreement, the enforcement debtor may not influence the price or other sale conditions.

The conclusion on awarding the movable asset is adopted immediately after the conclusion of the contract on the sale by direct agreement.

The opening price of the asset may not be less than 50% of the appraised value of the asset.

e) Settlement by Transfer of Ownership Right over Asset

Article 248

If the contract on sale by direct agreement under the conclusion on the sale of movable asset or opted by the enforcement creditor is not concluded within the deadline, or if the sale price is not paid within the deadline, the public enforcement officer determines that the asset is not sold by direct agreement opted by the enforcement creditor or under the conclusion on the sale of movable asset.

In all other aspects, the provisions on settlement by transfer of the ownership right over the immovable property (Art. 190 and 191) apply.

f) Other Provisions on Sale of Movable Assets

Eligibility of Buyer of Movable Assets

Article 249

A person who may not be the buyer of immovable property (Article 169) may not be the buyer of the movable assets, either at the public auction or by direct agreement.

Conclusion on Surrendering Movable Asset to Buyer

Article 250

The conclusion on surrendering the movable asset to the buyer is adopted immediately upon payment of the sale price and is served on all persons to whom the conclusion on the sale of the movable asset is served on, as well as the tax authority. The conclusion on surrendering the movable asset authorizes the buyer to register it in his name in all public registers. The conclusion on surrendering the movable asset may be adopted and the asset surrendered to the buyer even prior to payment of the sale price, if the enforcement creditor and persons with priority settlement from the sale price agree to it, at their own risk, within the limits of the amount that would be allocated to them in settlement.

If the buyer to whom the asset was surrendered fails to pay the sale price within the deadline, the enforcement creditor and persons with priority settlement from the sale price may request the public enforcement officer to conduct enforced collection of the sale price in the same enforcement

proceedings.

Termination and Strike Off of Pledge

Article 251

The right of pledge on the movable asset is terminated by adoption of the conclusion on the surrender of movable asset.

The conclusion authorizes the buyer to file application for the strike off of the right of pledge from the Pledge Register.

4. Settlement

Conclusion on Settlement

Article 252

The conclusion on settlement is adopted immediately after the conclusion on the surrender of the movable asset.

It is based on the state of the asset recorded in the case files and public registers.

Only claims contained in the writ of execution that became final prior to the adoption of the conclusion on settlement are taken into account during adoption of the conclusion.

Priority Settlement of Statutory Maintenance Claim

Article 253

The claims based on statutory maintenance that are evidenced by an enforcement document and reported prior to the adoption of the conclusion on awarding the asset, are settled before all other claims.

If multiple claims based on statutory maintenance may not be fully settled, they are settled in proportion to their respective amount.

Settlement of Other Claims

Article 254

After settlement of claims based on statutory maintenance, other claims are classified in three settlement orders:

- 1) Claims of pledge creditors;
- 2) Claims of enforcement creditors who acquired the right of pledge;
- 3) Claims of enforcement creditors who did not acquire the right of pledge.

The settlement of the next settlement order commences after the creditors from the previous order have been fully satisfied.

If the sale price is not sufficient to satisfy all creditors from the same settlement order, they are satisfied according to the order of acquiring the settlement right, and if they acquired the settlement right simultaneously - they are settled in proportion with the amount of claim.

The enforcement creditors who acquired the right of pledge are satisfied according to the order determined by this Law (Article 228), and the enforcement creditors who did not acquire the right of pledge, are settled according to the time when they filed the motion for enforcement.

The costs of the enforcement proceedings, costs awarded in the enforcement document, and the

interest awarded in the enforcement document, have the same order of settlement as the principal claim.

The surplus of the sale price that remains after the settlement is surrendered to the enforcement debtor.

Application of Provisions of this Law on Implementation of Enforcement on Immovable Property

Article 255

Provisions on enforcement for the settlement of the monetary claim on the immovable property (Art. 151-210) apply *mutatis mutandis* to all matters not expressly regulated by the provisions of this chapter of the Law.

Chapter Three ENFORCEMENT ON ENFORCEMENT DEBTOR'S MONETARY CLAIM

1. General Rules

Territorial Jurisdiction

Article 256

In deciding on a motion for enforcement for settlement of a monetary claim on a monetary claim of the enforcement debtor - if the enforcement debtor does not have permanent or temporary residence in the Republic of Serbia - the court on whose territory is the permanent residence of the enforcement debtor's debtor also has territorial jurisdiction, and if the enforcement debtor's debtor does not have permanent residence in the Republic of Serbia - the court in whose territory the enforcement debtor's debtor has temporary residence has the territorial jurisdiction.

Provisions of the paragraph 1 of this Article on permanent and temporary residence apply *mutatis mutandis* also to the registered headquarters of a legal person.

Territorial jurisdiction is determined in the same manner when deciding on the motion for enforcement for settlement of a monetary claim on the pecuniary funds deposited in the enforcement debtor's account, on the funds in the savings account, and on the funds in the checking account of the enforcement debtor.

Exemption from Enforcement

Article 257

The following is exempted from enforcement:

- 1) Statutory maintenance income, compensation for health impairment, annuity for partial or complete loss of working capacity, and annuity for maintenance that is lost due to death of maintenance provider;
- 2) Disbursements for corporal disability in accordance with regulations on disability insurance;
- 3) Welfare disbursements in accordance with the regulations on social protection;
- 4) Temporary unemployment benefits;
- 5) Child allowance;

- 6) Scholarships and grants for school and university students;
- 7) Claims whose transfer is prohibited by law.

Limitation of Enforcement

Article 258

Enforcement against wage or salary, or against compensation in lieu of wage, i.e. compensation in lieu of salary, and pension, may be carried out in the amount of up to two-thirds of the wage, compensation in lieu of wage, salary, compensation in lieu of salary, and pension, i.e. up to the half of their amount, if their amount is equal or less than the minimum wage determined in accordance with law.

This also applies to salaries of military officers, non-commissioned officers, professional soldiers, military clerks and members of the armed forces reserve during military service.

Enforcement against the minimum wage and minimum pension is implemented up to one-half of their amount.

Enforcement against earnings of war-time and peace-time disabled armed forces personnel based on remuneration for disability, prosthetic benefits and disability benefits may be effected only up to one half of such earning, and only for settlement of claims for statutory maintenance, compensation for health impairment, annuity for complete or partial loss of working capacity, and annuity for maintenance that is lost due to death of maintenance provider.

Enforcement against earnings based on compensation for damages in the form of annuity that is not exempt from enforcement, also under the contract on lifetime support and life insurance contract, may be effected only on the part of earnings which exceeds the amount of highest permanent welfare benefit that is paid out in the territory where the enforcement debtor has permanent or temporary residence.

Enforcement Actions

Article 259

Enforcement against monetary claim of the enforcement debtor is effected by attachment and transfer of claim for the purpose of satisfying the enforcement creditor.

Motion for Enforcement

Article 260

The motion for enforcement may contain a request for attachment of claim and transfer of claim, with or without determining the type of transfer, or just the attachment of claim.

The enforcement creditor that requested just the attachment of claim in the enforcement motion shall propose the type of transfer within the term of ten days from the day of receipt of the declaration of the enforcement debtor's debtor or from receiving the notice that the enforcement debtor's debtor has not made a declaration.

Otherwise, the enforcement proceedings are discontinued.

Writ of Execution

Article 261

The writ of execution determines attachment and transfer of the enforcement debtor's claim, but not the type of transfer.

The writ of execution stipulates the effects of attachment of the claim (Article 263, paragraph 2) and

the time when it comes into force.

The writ of execution is served also on the enforcement debtor's debtor.

The enforcement debtor's debtor is not entitled to appeal against the writ of execution.

Scope of Attachment and Transfer

Article 262

Claim of the enforcement debtor may be attached and transferred only in the amount necessary to settle the claim of the enforcement creditor, except in case of indivisible claim.

If multiple enforcement creditors request enforcement against the same divisible claim that is sufficient to satisfy each of them, the attachment and transfer is prescribed separately in favor of each of them, in corresponding amounts.

2. Attachment of Enforcement Debtor's Claim and Acquiring the Right of Pledge

Attachment of Claim

Article 263

Claim of the enforcement debtor is attached when the writ of execution is served on the enforcement debtor's debtor.

The attachment prohibits the enforcement debtor's debtor to settle the claim of the enforcement debtor, and the enforcement debtor to collect or dispose of the claim and the pledge by which it is secured.

A fine may be imposed for violation of these prohibitions.

Acquiring the Right of Pledge and Right of Settlement on Claim

Article 264

The enforcement creditor acquires the right of pledge on the enforcement debtor's claim at the time of the attachment thereof, along with the right of settlement.

The right of pledge extends also to the interest that matures after the attachment.

Claim Secured by Mortgage or Pledge

Article 265

If a claim of the enforcement debtor is secured by mortgage or pledge recorded in the cadastre of immovable property or the Pledge Register, the public enforcement officer orders the registration of the writ of execution in the cadastre of immovable property or the Pledge Register in which the mortgage or pledge are already registered, whereby the enforcement creditor takes the place of the enforcement debtor.

The enforcement creditor thus also acquires the right to be satisfied before the enforcement debtor on the subject of mortgage or pledge, after the transfer of the enforcement debtor's claim, according to the settlement order of the enforcement debtor.

Attached Claims Secured by Possessory Pledge and Security

Article 266

If the claim of the enforcement debtor is secured by possessory pledge, he surrenders the subject of the possessory pledge to the enforcement creditor only if the pledgor agrees to that.

If the enforcement debtor refuses to surrender the subject of the possessory pledge to the enforcement creditor, the actual possession is transferred to the enforcement creditor by seizing the asset from the enforcement debtor.

The guarantor of the enforcement debtor's claim remains as the guarantor of the claim which is secured by guarantee.

Declaration of Enforcement Debtor's Debtor

Article 267

The public enforcement officer requests the enforcement debtor's debtor to declare, within the term of five days from the day of serving of the writ of execution, whether he admits the claim and in what amount, whether he is willing to settle the claim, as well as whether his obligation is conditioned by performance of some other obligation.

Declaration of the enforcement debtor's debtor is delivered immediately to the enforcement creditor.

If the enforcement debtor's debtor fails to comply with the deadline for declaration, the public enforcement officer informs the enforcement creditor that the enforcement debtor's debtor has not made declaration.

Liability of Enforcement Debtor's Debtor

Article 268

The enforcement debtor's debtor is liable to the enforcement creditor for the damages caused by not declaring or by failure to declare correctly and completely.

The public enforcement officer warns the enforcement debtor's debtor about the obligation of correct and complete declaration, and the consequences of the violation thereof.

The enforcement debtor's debtor shall inform the public enforcement officer on the right of pledge on the enforcement debtor's claim that was not registered in the Pledge Register, immediately upon delivery of the writ of execution.

Settlement Order

Article 269

The claims based on statutory maintenance, proven by enforcement document and reported before adoption of the conclusion on transfer of the claim are settled first.

Next in settlement order are the claims on which the right of pledge was established prior to initiation of the enforcement proceedings. If the right of pledge is registered in the Pledge Register, the creditor is satisfied even if he failed to report the claim in the enforcement proceedings, but if the right of pledge is not registered in the Pledge Register - he is satisfied only if he reported the claim prior to the adoption of the conclusion on the transfer of claim.

Thereafter, the enforcement creditors are satisfied (Article 270).

The costs of the enforcement proceedings, and the costs and interests awarded in the enforcement document have the same settlement order as the principal claim.

Enforcement Creditors' Settlement Order

Article 270

Where multiple enforcement creditors filed the motion for enforcement against the same claim, and they all cannot be fully satisfied, the order of their satisfaction is determined according to the day of receipt of the motion for enforcement by the court. The next enforcement creditor is satisfied after the previous one was satisfied in full.

Multiple enforcement creditors that filed the motion for enforcement on the same day are satisfied simultaneously. If in that case all the enforcement creditors may not be satisfied in full, they are satisfied in proportion to the amount of their respective claims.

3. Transfer of Monetary Claim of Enforcement Debtor

a) General Rules

Types of Transfer

Article 271

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

When Type of Transfer is determined in Motion for Enforcement

Article 272

When the type of transfer has already been determined in the motion for enforcement, the enforcement creditor, within the term of five days from the day of receipt of the declaration of the enforcement debtor's debtor or upon expiry of the deadline for such declaration, states whether he keeps or changes the already determined type of transfer.

The public enforcement officer determines the type of transfer according to the statement of the enforcement creditor, and if he failed to make a statement - according to the motion for enforcement.

When Type of Transfer is not determined in Motion for Enforcement

Article 273

When the type of transfer is not determined in the motion for enforcement, the enforcement creditor shall propose the type of transfer to the public enforcement officer within the deadline set by this Law (Article 260, paragraph 2).

Conclusion on Transfer. Time of Transfer

Article 274

A conclusion is adopted on the transfer of the claim to the enforcement creditor.

A claim is transferred to the enforcement creditor when the conclusion on transfer is served on the enforcement debtor's debtor.

When multiple persons are satisfied, the conclusion on transfer specifies all such persons, the amount and the order of their satisfaction (Art. 269 and 270).

The conclusion on transfer is served also on the enforcement debtor and the persons that are satisfied.

Transfer of Indivisible Claim with One Enforcement Creditor

Article 275

The claim that for some reason may not be divided in respect to the transfer or settlement (indivisible claim), is entirely transferred to the enforcement creditor, who shall, prior to the transfer, if his claim is smaller than the claim being transferred, deposit a security in the amount of the difference between the claims.

Furthermore, he shall, prior to the transfer, deposit the security in the amount necessary to satisfy other persons with the right of settlement.

If the enforcement is limited on the claim that is being transferred, the transfer is permitted if the enforcement creditor deposits a security in the amount of the claim against which the enforcement is not permitted.

Transfer of Indivisible Claim with Multiple Enforcement Creditors

Article 276

If multiple enforcement creditors motioned for transfer of indivisible claim, it is transferred to the one who first filed the motion for transfer, but in case of multiple motions on the same day - it is transferred to the one whose claim is the largest.

The claim is transferred to him if he deposits the security in the amount needed to satisfy other persons that have the right of settlement, and if the enforcement is limited against the claim - also the security in the amount of the claim against which the enforcement is not permitted.

The transfer of claim does not constitute the priority of settlement, nor shall it change the order of settlement.

Obligations of Enforcement Creditor and Enforcement Debtor

Article 277

The enforcement debtor shall, within the deadline set by the public enforcement officer, provide the enforcement creditor with necessary explanations regarding the settlement from the transferred claim and surrender him the documents on the transferred claim.

At the motion of the enforcement creditor, the public enforcement officer carries out the enforcement against the enforcement debtor for surrendering the documents that the enforcement debtor failed to surrender.

The enforcement creditor may request the surrender of documents kept by some other person by filing a complaint, if so could do the enforcement debtor also.

The public enforcement officer makes a note on the document surrendered to the enforcement creditor that the claim has been transferred.

The enforcement creditor to whom only a portion of the claim was transferred shall, at the request of the enforcement debtor and within the deadline set by the public enforcement officer, deposit a security that he shall return the documents to the enforcement debtor after the settlement.

Depositing Cash with Public Enforcement Officer

Article 278

When other parties claim to have the right of settlement in addition to the enforcement creditor, the

enforcement debtor's debtor may deposit with the public enforcement officer, in their favor, the entire amount of the transferred claim or the matured part thereof.

The enforcement creditor, to whom the claim, in respect of which other persons claim to have the right of settlement, was transferred, may, through the public enforcement officer, invite the enforcement debtor's debtor to deposit the transferred claim with the public enforcement officer.

By depositing the transferred claim, the enforcement debtor's debtor is released from fulfillment of the obligation up to the amount of the transferred claim that was deposited.

b) Transfer of Monetary Claim for Collection

Authorizations of Enforcement Creditor

Article 279

After the transfer of the claim for collection, the enforcement creditor is authorized to request from the enforcement debtor's debtor payment of the transferred claim, if due, and to undertake all actions necessary for maintenance and settlement of the claim, to exercise the rights related to the security interest of the transferred claim, and to address the guarantor of the enforcement debtor's debtor how it is appropriate in terms of the type of the security interest.

The enforcement creditor shall not conclude a settlement agreement with the enforcement debtor's debtor at the expense of the enforcement debtor, release the debt of the enforcement debtor's debtor, or otherwise dispose of the claim, or make an agreement with the enforcement debtor's debtor to have a selected court decide on the claim, if it is disputed.

The enforcement debtor's debtor may file objections against the enforcement creditor to whom the claim was transferred, which he would have been entitled to make against the enforcement debtor.

Transfer for Collection of Claim Entered into Cadastre of Immovable Property or Pledge Register

Article 280

At the order of the public enforcement officer, the transfer for collection of a claim secured by mortgage or pledge is entered in the Cadastre of the Immovable Property or the Pledge Register, in which the mortgage or pledge were registered.

Conditioned Fulfillment of Obligation of Enforcement Debtor's Debtor by Surrendering Asset

Article 281

If the enforcement document established that the obligation of the enforcement debtor's debtor is conditioned by an obligation of the enforcement debtor to hand him over an asset in his possession, the public enforcement officer, upon the motion of the enforcement creditor, orders the enforcement debtor to surrender the movable asset within a stipulated deadline to the public enforcement officer, so that he would hand it over to the enforcement debtor's 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 (Art. 328-336).

Notice of Complaint for Collection of Transferred Claim

Article 282

The enforcement creditor who filed a complaint or motion for enforcement for collection of the transferred claim shall inform the enforcement debtor thereof, without delay.

Otherwise, he is liable for the damages incurred by such omission.

Negligent Treatment of Transferred Claim

Article 283

The enforcement creditor who fails to act with due diligence with respect to collection of the indivisible transferred claim, is liable for the damages thus suffered by the enforcement debtor, other enforcement creditor and other person being satisfied from the transferred claim.

The public enforcement officer may, on the motion of another enforcement creditor or enforcement debtor, repeal the conclusion on transfer of claim to the negligent enforcement creditor and transfer the claim to another enforcement creditor.

Satisfaction and Amount of Satisfaction of Enforcement Creditor

Article 284

The enforcement creditor, to whom a claim was transferred for collection, is satisfied when he receives the payment from the enforcement debtor's debtor or when he receives the cash deposited by the enforcement debtor's debtor with the public enforcement officer.

The enforcement creditor is satisfied to the extent of the amount he has collected.

Collection Larger than Enforcement Creditor's Claim in Case of Indivisible Claim

Article 285

The enforcement creditor who collected from the indivisible transferred claim an amount which exceeds the amount he is entitled to for satisfaction, shall deposit the surplus to the public enforcement officer.

The public enforcement officer uses such surplus to satisfy other persons entitled to satisfaction.

The enforcement creditor who deposited the collected surplus with the public enforcement officer is given back the guarantees he deposited (Art. 275 and 276).

c) Transfer of Monetary Claim in Lieu of Fulfillment

General Rules

Article 286

By transfer in lieu of fulfillment, the claim is transferred to the enforcement creditor up to the amount transferred, with the effect of ceding the claim with compensation.

If the transferred claim is secured by a mortgage or a pledge entered in the cadastre of immovable property or other public register, the public enforcement officer orders the transfer of mortgage and pledge from the enforcement debtor to the enforcement creditor and the strike off of the enforcement debtor's mortgage or pledge.

The enforcement creditor to whom the claim was transferred in lieu of fulfillment is deemed satisfied at the moment of the transfer of the claim, up to the amount of the transferred claim.

This does not affect the rules on the liability of the enforcement debtor for authenticity and collectability of the transferred claim.

If Claim is Indivisible

Article 287

If the transferred claim is indivisible, and multiple persons claim the right to satisfaction therefrom, the enforcement creditor to whom the claim was transferred for fulfillment is deemed to be the enforcement creditor to whom the claim was transferred for collection.

Chapter Four ENFORCEMENT AGAINST WAGE AND OTHER PERMANENT MONETARY INCOME

Application of Provisions. Notion of Wage

Article 288

The provisions on enforcement against the monetary claims of the enforcement debtor (Art. 256-287) apply to enforcement against wage and other permanent monetary income of the enforcement debtor, unless otherwise provided by the provisions in this Chapter of the Law.

The wage includes all income of the employee on the basis of work, without taxes and contributions paid from the wage.

Writ of Execution

Article 289

The writ of execution against the wage determines attachment of the part of the enforcement debtor's wage, and orders the employer to pay the attached amount to the enforcement creditor, until the claim of the enforcement creditor is settled in full.

Increase of Wage

Article 290

The writ of execution against the wage extends also to the increase of wage that happened after the follows serving of the writ of execution, irrespective of the time the work was performed.

Satisfaction of Enforcement Creditors of Statutory Maintenance and Annuity

Article 291

If multiple enforcement creditors have claims against the same enforcement debtor for statutory maintenance, annuity for partial or complete loss of working capacity, or annuity for maintenance that was lost due to the death of maintenance provider, but their claims exceed the part of the wage

that may be the subject of enforcement, the writ of execution is rendered and carried out in favor of each of them, in proportion with their respective claims.

If after the commencement of the enforcement of the stated claims (serving the writ of execution on the employer) a new motion for enforcement is filed with the aim of settling the same type of claim, the court amends the previous writ of execution and determines the amount which is to be paid in the future to each enforcement creditor, in proportion with their respective claims.

The writ amending the previous writ of execution is also served on the enforcement creditor on whose motion the previous writ of execution was rendered, who is entitled to file objection against the writ.

Priority in Settlement of Statutory Maintenance and Annuity Claim

Article 292

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

Place of Payment

Article 293

The enforcement creditor collects the claims for which non-cash payments have not been prescribed at the cashier's counter at which the enforcement debtor's wage is paid.

In that case, the enforcement creditor is entitled to collect the attached part of the wage at the expense of the enforcement debtor through a postal service to an address he designates, or to the bank account, upon deduction of postal costs.

The attached part of the wage is paid to the special purpose account of the public enforcement officer, who immediately transfers the paid amount to the account of the enforcement creditor.

Change of Employer

Article 294

The writ of execution also has effect on the new employer of the enforcement debtor, as of the moment the new employer has been served with the writ of execution.

The former employer of the enforcement debtor shall immediately deliver the writ of execution to the new employer, by registered mail with the return receipt requested, and to inform the public enforcement officer thereof. If the former employer is not acquainted with the identity of the new employer, he immediately informs the public enforcement officer thereof.

The public enforcement officer shall inspect the records of employees and health insurance, deliver the writ of execution to the new employer of the enforcement debtor and inform the enforcement creditor thereof.

If upon such inspection he determines that the enforcement debtor has no permanent monetary income, he invites the enforcement creditor to propose, within the term of eight days, the adding of a new instrument and subject of enforcement, or the changing of the instrument and the subject of enforcement.

If the enforcement creditor fails to make a proposal within the deadline, the enforcement proceedings are discontinued.

Liability of Employer for Failure to Pay Matured Installments

Article 295

The enforcement creditor may, until the completion of the enforcement proceedings, file a motion to the public enforcement officer to render a writ that has the effect of the writ of execution and which compels the employer to pay to the enforcement creditor the installments of the wage that the employer failed to attach and collect, and sets the instrument and the subject of enforcement, if the employer fails to pay the installments in due time.

The ruling is executed by the one who carries out the enforcement against the wage of the enforcement debtor.

Liability of Employer for Enforcement Creditor's Damages

Article 296

The employer is liable for the damages suffered by the enforcement creditor due to employer's failure to act in accordance with the writ of execution, or due to failure to deliver the writ of execution to the new employer, by registered mail with the return receipt requested, immediately upon the termination of the employment contract of the enforcement debtor, or due to failure to immediately inform the public enforcement officer of the fact that he has no knowledge of who is the new employer of the enforcement debtor.

Prohibition Consented by Enforcement Debtor (Administrative Order)

Article 297

Prohibition of wage payment consented by the enforcement debtor (administrative order) has the effect of the writ of execution against the wage.

Despite the administrative order, the enforcement creditors claiming statutory maintenance, annuity for maintenance that was lost due to death of maintenance provider, and annuity for complete or partial loss of working capacity, are settled prior to the creditors in whose favor 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.

Other Permanent Monetary Income of Enforcement Debtor

Article 298

Provisions pertaining to enforcement against wage are applied *mutatis mutandis* also to income on the basis of social insurance and other permanent monetary income of the enforcement debtor.

Chapter Five

ENFORCEMENT AGAINST MONETARY FUNDS ON THE ACCOUNT OF ENFORCEMENT DEBTOR

Extent of Enforcement against Bank Account of Enforcement Debtor

Article 299

Enforcement for settlement of the monetary claim against the enforcement debtor, who is a legal person, sole trader or natural person performing a business activity, is carried out by the enforced collection organization on all dinar and foreign currency funds in the accounts of the enforcement debtor, except those that are exempt from enforcement under the law.

The procedure and method of enforcement implementation is prescribed by the regulations governing payment transactions.

Additional Content of Motion for Enforcement

Article 300

In addition to identification data (Article 30), the motion for enforcement includes the numbers of the dinar account of the enforcement creditor and the number of the enforcement debtor's account that is not exempt from compulsory enforcement.

If the motion for enforcement indicates the Republic of Serbia, autonomous province or a unit of the local government in the role of the enforcement debtor, the enforcement creditor shall, in addition to the enforcement account of the budget, indicate the direct beneficiary of the budget funds, whose work created the claim that is 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 indicates indirect beneficiary of the budget funds as the enforcement debtor, the enforcement creditor shall indicate the account that the indirect beneficiary of the budget funds uses for its operations, its registration number and tax identification number.

Writ of Execution

Article 301

The writ of execution orders the enforced collection organization to instruct the banks to block the accounts of the enforcement debtor and to transfer the funds to the account of the enforcement creditor in the amount of his claim.

The writ of execution has the effect of the writ of execution which stipulates attachment of the monetary claim and transfer of the monetary claim for collection.

The writ of execution is served on the enforcement creditor, the enforcement debtor and the forced collection organization.

Collection of Future Periodic Payments

Article 302

The writ of execution which establishes collection of periodic payments that mature in specified time intervals (statutory maintenance, annuity for complete or partial loss of working capacity, annuity for maintenance that was lost due to death of maintenance provider, etc.) is carried out in such manner that the enforced collection organization instructs the bank or the competent state authority to disburse to the enforcement creditor any future payments, upon their maturity.

The order of collection of future periodic payments is determined according to the time when the enforced collection organization received the writ of execution.

The enforced collection organization keeps special records of the writs of execution which establish the collection of future periodic payments.

Stay of Enforcement

Article 303

Upon the motion of the enforcement creditor or the public enforcement officer who prove that the motion for enforcement has been withdrawn, the enforced collection organization instructs the bank, i.e. the competent state authority, to stay the enforcement, until the writ on discontinuation of the enforcement proceedings has been rendered.

Implementation of Enforcement against Joint and Several Debtors

Article 304

If the enforcement document stipulates joint and several liability of two or more enforcement debtors, the court renders one writ of execution for all of them, or only for some of them, as specified in the motion for enforcement.

The enforced collection organization shall block the accounts of all joint and several enforcement debtors.

The claim is collected simultaneously from all accounts of joint and several enforcement debtors so that each is charged an equal amount, provided that the sum of amounts may not exceed the claim of the enforcement creditor.

If a joint and several debtor's account has insufficient funds for settling the claim simultaneously, the enforcement creditor is satisfied from the account of any of the enforcement debtors that has funds.

Discontinuation of Enforcement Proceedings

Article 305

The enforced collection organization shall inform the public enforcement officer on the enforcements that have been fully implemented.

If the enforcement has not been implemented within the term of 15 days from the date of receipt of the writ of execution, the public enforcement officer invites the enforcement creditor to declare within the term of eight days whether he continues with enforcement against the funds on the enforcement debtor's account, or motions for adding a new instrument and subject of enforcement or change of the instrument and subject of enforcement.

If the enforcement creditor fails to make such declaration within the deadline, the enforcement proceedings are discontinued.

Returning the Writ of Execution

Article 306

If the writ of execution contains incomplete or inaccurate data, and therefore may not be implemented, the enforced collection organization returns the writ immediately to the court, with the information on the reasons of return.

Chapter Six ENFORCEMENT AGAINST FUNDS IN SAVINGS DEPOSIT

Enforcement Actions

Article 307

Enforcement against the enforcement debtor's funds in a savings deposit is carried out by attachment and transfer of the funds in the savings deposit in order to satisfy the enforcement creditor.

Additional Contents of Motion for Enforcement

Article 308

The enforcement creditor shall indicate in the motion for enforcement the number of the savings account of the enforcement debtor, name of the bank maintaining the account, and other data on the savings deposit that are necessary to implement the enforcement.

Attachment of Funds and Settlement

Article 309

Funds from the savings deposit are deemed attached when the public enforcement officer delivers the writ of execution to the bank maintaining the savings account.

The public enforcement officer delivers the writ of execution to the enforcement debtor only after he receives a report from the bank that the attachment was carried out.

The enforcement creditor is satisfied according to the provisions on enforcement against monetary claim of the enforcement debtor (Art. 256-287).

Chapter Seven ENFORCEMENT AGAINST FUNDS ON ENFORCEMENT DEBTOR'S CHECKING ACCOUNT

Article 310

The writ of execution against the checking account of the enforcement debtor who is a natural person has the effect of the writ of execution that stipulates attachment of the monetary claim and transfer of the monetary claim for collection.

Provisions on the enforcement against the savings deposit of the enforcement debtor (Art. 307-309) apply *mutatis mutandis* to settlement from the checking account of the enforcement debtor.

Chapter Eight

ENFORCEMENT OF MONETARY CLAIMS AGAINST FINANCIAL INSTRUMENTS, STAKES IN COMPANY, AND SECURITIES

1. Enforcement of Monetary Claim against Financial Instruments

Territorial Jurisdiction

Article 311

The court competent for enforcement against monetary claims of the enforcement debtor (Article 256) has the territorial jurisdiction for deciding on the motion for enforcement for settlement of monetary claim by sale of financial instruments.

Contents of the Writ of Execution

Article 312

In the writ of execution, the court orders the Central Securities Depository to register the prohibition of disposal of financial instruments that are the subject of enforcement and the right of pledge over them in favor of the enforcement creditor, and stipulates the their sale.

The writ of execution shall also contain the business name of the investment company maintaining the securities account of the enforcement debtor and the data on the special purpose monetary account of the enforcement creditor where to the sale proceeds are paid in.

To Whom the Writ of Execution is served

Article 313

The writ of execution is served on the enforcement creditor, the enforcement debtor, Central Securities Depository and the investment company maintaining the securities account of the enforcement debtor.

Prohibition of Disposal of Financial Instruments and Constitution of Pledge

Article 314

Central Securities Depository registers the following data from the writ of execution:

- 1) Name of court that rendered the writ of execution;
- 2) Reference number of the writ of execution;
- 3) Date of rendering of the writ of execution;
- 4) Registration number and the name of the issuer of the financial instrument;
- 5) CFI and ISIN numbers of the financial instrument;
- 6) Quantity of financial instruments;
- 7) Registration number, business name or first and family name of the enforcement debtor;
- 8) Registration number, business name or first and family name of the enforcement creditor;

9) Amount of the claim.

At the same time, the Central Securities Depository registers the prohibition of disposal of the financial instruments that are the subject of enforcement and the right of pledge over them in favor of the enforcement creditor.

Sale of Financial Instruments

Article 315

The public enforcement officer adopts a conclusion on the sale of financial instruments that are the subject of enforcement, upon receiving the information from the Central Securities Depository that the prohibition of disposal and the right of pledge have been registered.

Financial instruments are sold by the investment company maintaining the account of the enforcement debtor's financial instruments.

Financial instruments are sold at the regulated market or by multilateral trading facility according to the law regulating the capital market, and also at OTC market if their value has been appraised previously and if the sale at a regulated market or by a multilateral trading facility remains unsuccessful.

Financial instruments that are not traded at a regulated market or by multilateral trading facility are sold exclusively at OTC market, upon their prior appraisal.

Appraisal of Financial Instruments

Article 316

The value of the financial instruments listed on the stock market is their average price on the stock market over the 30 days preceding the appraisal, determined on the basis of a stock market report.

In other instances, the public enforcement officer entrusts the judging of the value of financial instruments to authorized persons, according to the law that regulates companies.

Mutatis Mutandis Application of Provisions on Settlement on Movable Asset

Article 317

Satisfaction of the enforcement creditor by transferring the property right over a financial instrument is not permitted.

To all other issues, related to the sale of the financial instruments and satisfaction of the enforcement creditor from the sale price, the provisions on enforcement with the aim of settling a monetary claim on a movable asset (Art. 218-255), are applied *mutatis mutandis*.

2. Enforcement on Stakes in Company

Enforcement Actions

Article 318

Enforcement of monetary claims on an equity stake in a company is carried out by attachment of stake, registration of the right of pledge over stake, appraisal of the stake and sale of stake for the purpose of satisfaction of the enforcement creditor.

Attachment of Stake and Acquiring Right of Pledge over It

Article 319

The writ of execution on a stake in a limited liability company, partnership and limited partnership is served on the enforcement creditor, enforcement debtor and the Business Registers Agency.

The following data from the writ of execution are entered into the Pledge Register:

- 1) Name of the court which adopted the writ of execution;
- 2) Reference number of the writ of execution;
- 3) Date of adoption of such writ of execution;
- 4) Business name of the company on whose stake the enforcement is being carried out;
- 5) Equity stake which is the subject of enforcement;
- 6) Business name or first and family name of the enforcement debtor;
- 7) Amount of claim.

Simultaneously, the right of pledge of the enforcement creditor on the stake is registered in the Pledge Register, whereas the attachment of stake and annotation of the commencement of the enforcement proceedings for the purpose of sale of stakes are entered into the Register of Business Entities.

Appraisal and Sale of Company Stakes

Article 320

Provisions on enforcement for the purpose of settling the monetary claim on movable assets (Art. 218-255) are applied *mutatis mutandis* to the appraisal and sale of stake.

Pre-Emptive Right of Members of a Limited Liability Company

Article 321

The provisions of the pre-emptive right when settling monetary claim on immovable property (Article 170) are applied to the pre-emptive right of the members of a limited liability company.

3. Enforcement on Securities

Territorial Jurisdiction and Enforcement Actions

Article 322

The court competent for the enforcement of monetary claims of the enforcement debtor (Article 256) also has the territorial jurisdiction to rule on a motion for enforcement for the purpose of settling a monetary claim on securities.

The enforcement is carried out through attachment of claim contained in the security and through transfer of claim for the purpose of satisfaction of the enforcement creditor.

Attachment of Claim Contained in Security

Article 323

Attachment of monetary claim from security is carried out by having the public enforcement officer

seize the security from the enforcement debtor and retain it.

The legal actions necessary for retaining or exercising the claim from the seized security is carried out by a person appointed by the conclusion of the public enforcement officer.

Transfer of Claim from Security

Article 324

Claim is transferred once the public enforcement officer provides a statement on the transfer of security and hands it over to the enforcement creditor.

Claim is indivisible and is transferred to the enforcement creditor in full.

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 filed motions for transfer, the claim is transferred to the enforcement creditor who was first to file a motion for transfer, and if several of them have filed a motion on the same day - the claim is transferred to the enforcement creditor whose claim is the largest.

Mutatis Mutandis Application

Article 325

Provisions on the transfer of a monetary claim for the purpose of collection and transfer of a monetary claim in lieu of fulfillment are applied *mutatis mutandis* to the transfer of a claim from security.

Application to Securities Containing Non-monetary Claim

Article 326

Provisions on enforcement on securities containing a monetary claim are applied also to the enforcement on securities which contain a non-monetary claim.

Chapter Nine

ENFORCEMENT OF CLAIM OF ENFORCEMENT DEBTOR TO SURRENDER HIM IMMOVABLE PROPERTY OR SURRENDER OR DELIVER MOVABLE ASSETS

1. General Provisions

Territorial Jurisdiction

Article 327

A court on whose territory the assets are located also has the territorial jurisdiction to rule on a motion for enforcement in order to settle a monetary claim on a claim of the enforcement debtor to surrender him immovable property or a specific movable asset or deliver a specific quantity of movable assets. Such jurisdiction is exclusive in case of surrender of immovable property.

If moveable asset is located on the territory of several courts, the court to which the motion for enforcement was first submitted has the territorial jurisdiction.

In case the claim consists of the surrender of immovable property and movable assets which are located on the territory of various courts, the court on whose territory the immovable property is located has the exclusive territorial jurisdiction.

Enforcement Actions

Article 328

Enforcement on a claim of the enforcement debtor to surrender him an immovable property or a movable asset is carried out through attachment of claim, transfer of claim, surrender of immovable property or movable asset to the enforcement creditor, and sale of assets with the aim of satisfying the enforcement creditor.

Divisible and Indivisible Subject of Obligation of Enforcement Debtor's Debtor

Article 329

When the subject of the obligation of the enforcement debtor's debtor is divisible, the claim may also be partially transferred to the enforcement creditor.

If the subject of the obligation is indivisible, and the claim of the enforcement creditor is smaller than the claim being transferred, the enforcement creditor shall deposit a pledge prior to the transfer, in the amount equal to the difference between his claim and the value of the subject of obligation.

Institution of Right of Pledge

Article 330

The enforcement creditor acquires the right of pledge over a claim of the enforcement debtor when attachment of claim comes into force.

Contents of Conclusion on Transfer of Claim. Effect of Transfer

Article 331

The public enforcement officer renders *ex officio* a conclusion on the transfer of claim.

Such conclusion transfers the right to collect the claim to the enforcement creditor, and orders the enforcement debtor's debtor to surrender the immovable property or movable assets to the enforcement creditor or a person which he designates.

The transfer of claim has the same effect as the transfer of monetary claim for the purpose of collection.

Non-maturity of Claims of Enforcement Debtor

Article 332

In case the claim of the enforcement debtor has not matured yet, the conclusion on transfer of claim orders the surrender of objects, upon maturity.

Complaint against Enforcement Debtor's Debtor

Article 333

The enforcement creditor may file a complaint to request the enforcement debtor to surrender him the asset.

In case the obligation of the enforcement debtor's debtor to surrender the assets to the enforcement debtor has been set pursuant to an enforcement document, the enforcement creditor may file a motion for enforcement against the enforcement debtor's debtor, with the aim of surrendering the assets.

Application of Provisions on Enforcement on Monetary Claim

Article 334

The provisions on enforcement for the purpose of settling of a monetary claim on the monetary claim of the enforcement debtor (Art. 257-287) are applied *mutatis mutandis* to the enforcement on the claim of the enforcement debtor to surrender him the immovable property or specific movable asset or to deliver him a specific amount of movable assets, unless otherwise stipulated by the provisions of this chapter of the Law.

2. Movable Assets

Right of Pledge on Surrendered Movable Asset

Article 335

The surrender of asset is grounds for the enforcement creditor to acquire the right of pledge on the movable asset by registration in the Pledge Register.

The order of priority of his right of pledge is determined according to the day of attachment of the claim of the enforcement debtor.

The provisions on safekeeping the inventoried movable assets (Art. 229 and 230) are applied *mutatis mutandis* to the safekeeping of the movable asset.

Sale of Assets and Satisfaction of Enforcement Creditor

Article 336

The provisions on enforcement with the aim of settling the monetary claim on a movable asset (Art. 218-255) are applied *mutatis mutandis* to the sale of movable assets and satisfaction of the enforcement creditor from the sale price.

The conclusion on the sale of the movable asset is rendered after the conclusion on the transfer of claim of the enforcement debtor.

3. Immovable Properties

Surrender of Immovable Property to Enforcement Creditor. Right of Pledge over Surrendered Immovable Property

Article 337

The enforcement creditor shall manage the immovable property with due diligence, on behalf of and for the account of the enforcement debtor.

The surrender of immovable property is the grounds for the enforcement creditor to acquire the right of pledge on immovable property by registration in the cadastre of immovable property.

The priority order of his pledge right is determined according to the day of attachment of the claim of the enforcement debtor.

Sale and Satisfaction of Enforcement Creditor

Article 338

The enforcement creditor shall, in order to settle the claim, propose to the public enforcement officer to adopt a conclusion on the sale of immovable property within the term of 30 days from the day of adoption of the conclusion on the transfer of claim; otherwise, the enforcement proceedings are discontinued.

Immovable property is sold and the enforcement creditor is satisfied from the sale price through *mutatis mutandis* application of the provisions on enforcement with the aim of settling the monetary claim on immovable property (Art. 151-210).

Part Four

ENFORCEMENT WITH THE AIM OF EXERCISING NON-MONETARY CLAIM

Chapter One

COURT PENALTIES

Territorial Jurisdiction

Article 339

A court on whose territory the enforcement debtor has permanent or temporary residence, i.e. has its registered headquarters, has the territorial jurisdiction to rule on the motion for levying of court penalties.

Writ on Levy of Court Penalties

Article 340

Should the enforcement debtor fail to fulfill the obligation of performance, omission or sufferance, set forth by the enforcement document, the court may, within the enforcement proceedings, upon proposal of the creditor acting in the capacity of an enforcement creditor, order the enforcement debtor to fulfill his obligation within the term of eight days (subsequent deadline) and to compel him, should he fail to fulfill the obligation within the subsequent deadline, to pay to the enforcement creditor a specific amount of money for each day of lateness or some other unit of time (court penalties), for the period of time from the expiry of the subsequent deadline until the enforcement creditor files a motion for enforcement of the enforcement document.

The subsequent deadline commences from the day when the enforcement debtor receives the writ on levying court penalties, and an objection does not have an effect on the duration of the deadline.

The enforcement creditor may file a motion for levying court penalties until the moment when he files a motion for enforcement of the enforcement document which determined the non-monetary obligation of the enforcement debtor.

The writ that levies the court penalties is the enforcement document.

An objection against this writ is allowed.

Termination of Obligation of Payment of Court Penalties and Amendments to the Writ on Levying Court Penalties

Article 341

The enforcement debtor who fulfils the obligation within the term of 15 days at the latest from the day of receipt of the writ on levying court penalties, may, within the term of eight days from the day of fulfillment of the obligation, file a motion to the court to reduce the court penalties in the same enforcement proceedings. The submission of such motion does not have an effect on the enforcement of the writ on levying court penalties.

The court levying the court penalties renders a writ on his motion, taking into account the purpose for which they were levied.

An objection is allowed against the writ.

The obligation to pay the court penalties ceases once the enforcement debtor fulfils the obligation or once the enforcement creditor files a motion for enforcement of the enforcement document which set forth the non-monetary obligation of the enforcement debtor.

Enforcement with the Aim of Collecting Court Penalties

Article 342

The court which has levied the court penalties renders, upon the motion of the enforcement creditor and within the same enforcement proceedings, a writ of execution of the writ on levying court penalties, prior to its finality.

An objection against the writ of execution is allowed.

Chapter Two SURRENDER OF MOVABLE ASSETS

1. Territorial Jurisdiction

Article 343

The court in whose territory the movable assets are located also has the territorial jurisdiction to rule on a motion for enforcement for surrender of the individually identified movable assets or for delivery of a specified amount of replaceable assets.

2. Surrender of Individually Identified Movable Assets

When Assets are in Possession of Enforcement Debtor or Other Party

Article 344

The individually identified movable assets that are in possession of the enforcement debtor are seized by the public enforcement officer and surrendered to the enforcement creditor with a receipt.

Enforcement is to be conducted in the same manner in case when the asset is in the possession of another person who is willing to surrender it.

The public enforcement officer informs the enforcement creditor of the time and place of asset seizing.

If Individually Identified Asset was not found at Enforcement Debtor

Article 345

If assets were not found at the enforcement debtor, the enforcement creditor may, within the term of eight days from the moment he was notified thereof, propose the appraisal of the asset, and that the public enforcement renders a writ after that which has the effect of a writ of execution, whereby the enforcement debtor is obligated to pay to the enforcement creditor the appraised value of the asset.

Should the enforcement creditor fail to file a motion within the deadline, the enforcement proceedings are discontinued.

The asset is appraised by the public enforcement officer.

The Right of Choice of Enforcement Creditor Should the Other Party Fail to Surrender the Individually Identified Movable Asset

Article 346

If another person is unwilling to surrender the asset or claims that the asset is not at his place, the enforcement creditor may, within a term of eight days from the moment when he was notified thereof, propose to the public enforcement officer to render a conclusion whereby the claim of the enforcement debtor for the surrender of asset is transferred to the enforcement creditor.

Instead, but within the same deadline, the enforcement creditor may propose that the asset is to be appraised and that the public enforcement officer renders a writ which has the effect of a writ of execution, whereby the enforcement debtor would be obligated to pay to the enforcement creditor the appraised value of the asset.

If the enforcement creditor files no motion within a given deadline, the enforcement proceedings are discontinued.

Mutatis Mutandis Application

Article 347

The provisions on enforcement of claims for surrender of a specific movable asset or delivery of a specific quantity of movable assets (Art. 328-336) are applied to the procedure regarding the writ of execution for the transfer of the claim of the enforcement debtor to surrender assets.

3. Delivery of Replaceable Assets

When Replaceable Assets are at Enforcement Debtor or a Third Party

Article 348

In case when the enforcement document calls for the delivery of a specific quantity of replaceable assets which are held by the enforcement debtor or other person, the enforcement is carried out as if individually identified movable asset is being surrendered.

Purchase of Assets Elsewhere

Article 349

If replaceable assets are not found at the enforcement debtor or if another person is not willing to surrender them or claims that they are not with him, the public enforcement officer may, at the request of the enforcement creditor, authorize the enforcement creditor to purchase the asset elsewhere and to set him a deadline for that.

The enforcement creditor who purchases the asset elsewhere may, within the term of eight days from the purchase, propose that the public enforcement officer renders a writ which would have an effect of a writ of execution whereby the enforcement debtor is compelled to pay him the value of the purchased asset.

Depositing a Monetary Amount for the Purpose of Asset Purchase Elsewhere

Article 350

The enforcement creditor is entitled, within the term of eight days from the moment when he was informed that the assets have not been found at the enforcement debtor, that the other person is

not willing to surrender them or claims that they are not with him, to propose that the public enforcement officer renders a writ which has the effect of a writ of execution whereby the enforcement debtor is obligated to deposit, at the court, or the public enforcement officer a monetary amount which the enforcement creditor needs to buy the asset elsewhere.

The public enforcement officer enforces the conclusion on depositing the monetary amount *ex officio*.

Possibility of Discontinuation of Enforcement Proceedings

Article 351

The enforcement proceedings are discontinued should the enforcement creditor fail to file a motion within the deadline, for the enforcement debtor to be obligated to pay him the value of the asset purchased elsewhere, or a motion for the enforcement debtor to be obligated to deposit a monetary amount with the public enforcement officer, needed to the enforcement creditor to purchase the asset elsewhere.

If Replaceable Assets Could Not Have Been Purchased Elsewhere

Article 352

The enforcement creditor is entitled to, within the term of eight days from the moment when he was informed that the assets were not found at the enforcement debtor or that another person is not willing to surrender them or claims that they are not with him, propose that the public enforcement officer renders a writ that has the effect of a writ of execution whereby the enforcement debtor is obligated to deposit a monetary amount with the public enforcement officer, which is needed to the enforcement creditor to buy the asset elsewhere.

The proposal may be submitted within eight days from the moment of expiry of the deadline for the purchase of assets elsewhere or within the deadline which the public enforcement officer has set in case the enforcement creditor made it probable that not even the purchase of object elsewhere was possible.

The enforcement proceedings are discontinued should the enforcement creditor fail to file even a single motion within a given deadline.

Chapter Three VACATING AND SURRENDERING IMMOVABLE PROPERTY

Territorial Jurisdiction

Article 353

The court on whose territory the immovable property is located has the exclusive territorial jurisdiction to rule on the motion for enforcement with the aim of vacating and surrendering immovable property.

Enforcement Actions

Article 354

Enforcement by vacating and surrendering immovable property is carried out by evicting persons

and removing objects from immovable property and surrendering the immovable property into the possession of the enforcement creditor, or solely by surrendering the immovable property into the possession of the enforcement creditor provided the eviction of persons or removal of objects is not necessary, or solely by eviction of persons and removal of objects from the immovable property which is already in the possession of the enforcement creditor.

Implementing Enforcement

Article 355

Enforcement commences with implementation upon expiry of eight days from the moment when the enforcement debtor received the writ of execution.

The enforcement creditor shall provide the required manpower and transportation means, upon request of the public enforcement officer.

Such request is communicated to him at the latest eight days prior to commencement of enforcement.

Removal of Movable Assets

Article 356

The removed movable assets are handed over to the enforcement debtor, while in his absence to an adult member of his household or to his proxy.

In case during the removal of assets no one is present to whom the assets may be handed over or such person is present but refuses to receive the asset, the assets are handed over to another person or to the enforcement creditor, at the cost of the enforcement debtor, about which event the public enforcement officer makes a record.

The public enforcement officer renders a conclusion to inform the enforcement debtor about the handover of the movable assets for safekeeping and about the costs of such safekeeping, and sets a deadline within which the enforcement debtor may reimburse the costs of safekeeping of assets and then request their surrender.

In the same conclusion the enforcement debtor is warned that the assets shall be sold upon expiry of the set deadline and that the safekeeping costs, as well as the costs of sale shall be reimbursed from the sale price.

Sale of Movable Assets

Article 357

If the enforcement debtor fails to indemnify the costs of assets safekeeping or to request their surrender within the set deadline, a conclusion on the sale of assets is rendered for the account of the enforcement debtor.

Any portion of the sale price that remains upon settling of the safekeeping costs and the costs of sale of assets is deposited with the public enforcement officer in favor of the enforcement debtor.

The asset is sold in compliance with the provisions on enforcement for the purpose of settling the monetary claim on moveable asset (Art. 218-255).

Enforcement for Reimbursement of Costs of Enforcement Creditor

Article 358

The enforcement creditor may, in the motion for enforcement or later, until the finalization of the enforcement proceedings, request that the court, i.e. the public enforcement officer orders the

reimbursement of costs of the enforcement proceedings by sale of movable assets of the enforcement debtor, which need to be removed from the immovable property.

In such case, enforcement is carried out in line with the provisions on enforcement for the purpose of settling the monetary claim on moveable asset (Art. 218-255).

Chapter Four ENFORCEMENT OF ACTION, OMISSION OR SUFFERANCE

Territorial Jurisdiction

Article 359

A court on whose territory the enforcement debtor is required to fulfill his obligation also has territorial jurisdiction to rule on a motion for enforcement and for implementation of enforcement for undertaking of a certain action of the enforcement debtor (action), refraining from a certain action (omission) or sufferance of a certain action.

Action that May be Performed also by Other Person

Article 360

If an action may be performed by another person, and not only by the enforcement debtor, the enforcement creditor is authorized in the writ of execution to undertake, within the set deadline and at the cost of the enforcement debtor, the action independently, or to entrust it to another person.

The enforcement proceedings are discontinued should the enforcement creditor or another person fail to undertake the action within the deadline set in the writ of execution.

Advance Payment for the Costs of Action

Article 361

Upon the motion of the enforcement creditor contained in the motion for enforcement, the court may render a conclusion which compels the enforcement debtor to make an advance payment at the court required to cover the costs of the action (conclusion on advance payment of costs). Such conclusion also sets a deadline for the performance of the action, which commences upon placement of the advance payment of costs.

The conclusion on advance payment of costs is an integral part of the writ of execution which the court enforces *ex officio*.

The enforcement proceedings is stayed if the enforcement creditor or another person to whom he entrusted the action, fail to undertake the action within the deadline specified in the conclusion on the advance payment of costs.

Final Costs of Action Which May be Performed by Other Person

Article 362

The final costs of action are set forth by the court upon a motion of a party.

If the costs which the enforcement debtor paid in advance are higher than the amount which was used to pay the costs of the action and the enforcement proceedings, the court, upon a motion of

the enforcement debtor, returns the difference to enforcement debtor if such difference is at its disposal.

If such difference is not at court's disposal, the court issues a conclusion to compel the enforcement creditor to return the difference to the enforcement debtor, within a specified deadline. Such conclusion is governed by *mutatis mutandis* application of the rules of conclusion on advance payment of costs (Article 361).

Action that May be Performed Only by Enforcement Debtor

Article 363

Where an action may be performed only by the enforcement debtor, the writ of execution determines an appropriate deadline for such an action and the enforcement debtor is imposed with a fine should he fail to perform the action within the deadline, upon which the court, *ex officio*, issues a writ of execution of the subject fine.

Simultaneously, and upon the motion of the enforcement creditor, the court issues a new writ, specifying a new appropriate deadline for the subject action and imposes a new fine to the enforcement debtor, in a higher amount than the previous one, if the subject action is not performed within the deadline. Should the debtor, once again, miss the deadline, the court again, *ex officio*, issues a writ of execution of the subject fine.

The aforementioned is repeated until the enforcement debtor performs the action.

The enforcement debtor, who performs the action within the deadline, shall immediately provide the court with credible evidence thereof. A certified written statement of the enforcement creditor or the court's record of performance of action, as well as the findings and opinion of an expert witness or the handover of an object that was made by such action, etc. are deemed as credible evidence.

If an action that may be performed only by the enforcement debtor, does not depend solely of his will (creation of a work of art or the like), the enforcement creditor may not request enforcement of the action, but only the compensation of damages.

An objection is allowed against the writ that sets a new appropriate deadline and imposes a new fine, and against the writ of execution for the subject fine.

Omission and Sufferance

Article 364

If the enforcement debtor acts contrary to the obligation specified in the enforcement document to refrain from a specific action (omission) or to suffer a specific action, the writ of execution compels him to act in compliance with the obligation and imposes a fine if he continues to act contrary to the obligation.

If even after that the enforcement debtor acts contrary to the obligation, the court, upon the motion of the enforcement creditor, issues a writ of execution of the fine, adopts a new writ to impose a new fine to the enforcement debtor in a higher amount than the previous one, should he again act contrary to the obligation. Upon the motion of the enforcement creditor, the court again issues a writ of execution of the fine and adopts a new writ to impose a new fine on the enforcement debtor, in a higher amount than the previous one, should he again act contrary to the obligation.

The aforementioned is repeated while the enforcement debtor acts contrary to the obligation.

An objection is allowed against the writ that imposes a new fine on the enforcement debtor, as well as against the writ of execution for the fine.

Enforcement for Reinstatement

Article 365

Should the conduct of the enforcement debtor that is contrary to the obligation specified in the enforcement document (omission, sufferance and similar) cause a change from the moment of issuance of the enforcement document which is not in compliance with the right of the enforcement creditor, the court, upon a motion of the enforcement creditor, adopts a conclusion, authorizing the enforcement creditor to reinstate the *status quo ante*, either independently or with assistance of another person, at the cost and risk of the enforcement debtor.

Provisions on costs of action which may be performed, apart by the enforcement debtor, by another person (Articles 361 and 362) apply to the advance payment of the amount required for covering the costs of the action and to the final costs of the action.

Repeated Trespassing

Article 366

If the enforcement debtor has voluntarily fulfilled the obligation specified in the enforcement document issued in proceedings regarding trespass, or if enforcement was carried out on the basis of such document, and if the enforcement debtor repeats trespass which essentially does not differ from the previous one, the court, upon the motion of the enforcement creditor and on the basis of the same enforcement document, issues a new writ of execution, calling for the return of objects into the possession of the enforcement creditor or imposing a fine on the enforcement debtor in line with the provisions on violation of the omission obligation (Article 364).

The motion for enforcement may be submitted within the term of 30 days from the day of discovery of repeated trespass, and the latest within one year of repeated trespass.

An objection is allowed against the writ that imposes a fine on the enforcement debtor.

Right to Compensation for Damages

Article 367

The provisions of this Chapter of the Law do not prejudice the right of the enforcement creditor to seek compensation for damages within the civil lawsuit, due to the fact that the enforcement debtor has violated the obligation to undertake, refrain from or suffer a specific action.

Chapter Five ENFORCEMENT OF RULINGS PERTAINING TO FAMILY RELATIONS

1. Surrender of Child

Territorial Jurisdiction

Article 368

For ruling on a motion to enforce the surrender of child, a court has territorial jurisdiction according to the permanent, i.e. temporary residence or the registered headquarters of the party which has filed a motion for enforcement or according to the permanent, i.e. temporary residence or the headquarters of the party against which the enforcement is carried out, or a court on whose territory

the child is located.

Enforced removal of child is carried out by a court on whose territory the child is found, either *ex officio* or upon request of the party who filed the motion for enforcement.

The court competent for ruling on the motion for enforcement may entrust certain enforcement actions to the court that is not competent for conducting enforcement.

Eligibility to File Motion for Enforcement

Article 369

A motion for enforcement may be filed by a parent to whom parental rights have been entrusted, other person or the institution to which the child has been entrusted for upbringing and education, as well as the custodial authority.

Specifically on Motion for Enforcement

Article 370

It is not necessary to indicate the instrument of enforcement in the motion for enforcement for surrender of child, and if it has been indicated, it does not bind the court.

Safeguarding the Interests of Child

Article 371

The court takes particular care to safeguard as well as possible the interests of the child.

If in the best interest of the child, the court may, exceptionally, convene a hearing.

Writ of Execution

Article 372

If the enforcement document does not order the surrender of child, the writ of execution orders the party enforced against, to surrender the child, either immediately or within a specified period of time.

The surrender of child may be ordered by the writ of execution to a person to whom the enforcement title document relates, a person on whose will the surrender of child depends, and every other person with whom the child is at the time of issue of the writ of execution or during the implementation of enforcement.

The order for the immediate surrender of child is issued primarily if life, health or psychological or physiological development of the child are in danger, or if the enforcement document specifies the surrender of an illegally taken or withheld child, with the aim of his return to a foreign state (civil law child abduction), or reinstatement of relations of custody or meeting of a parent and child in a foreign state.

Instruments of Enforcement

Article 373

Upon assessing the circumstances, the court specifies the following instruments of enforcement in the writ of execution:

- 1) Enforced removal and surrender of a child;
- 2) Fine;

3) Imprisonment.

They may be imposed and enforced against a person, who, contrary to the order of the court, refuses to surrender the child, a person who complicates or prevents the surrender of the child, a person with whom the child is or a person on whose will the surrender of the child depends.

The court may modify the instruments of enforcement until the finalization of enforcement.

Fine and Imprisonment

Article 374

A fine is imposed and enforced pursuant to the provisions on enforcement of the fine with the aim of undertaking an action which may be undertaken solely by the enforcement debtor (Article 363).

A fine may not be substituted by imprisonment.

Imprisonment is imposed until the surrender of the child, the longest up to 60 days and it is enforced according to the law governing the enforcement of criminal sanctions.

Serving Writ of Execution on a Custodial Authority. Role of the Custodial Authority Psychologist

Article 375

By ten days at the latest, prior to enforcement commencement, the writ of execution is served on the competent custodial authority, on whose behalf a psychologist takes part in the enforcement proceedings.

If deemed necessary, the school, the family counseling unit and other specialized institutions for family relations mediation are summoned to take part in the enforcement proceedings.

The psychologist of the custodial authority shall determine the emotional status of the child, his manner of reaction to stress and prevalence mechanisms, the speed of adaptation to changes, the emotional relations of the child and the person with whom the child is living and the person to whom the child is to be surrendered to, and other facts significant for the actual organization of enforcement activities, as well as carry out the informational and counseling work with the person with whom the child is living and attempt to obtain the voluntary surrender of the child (by pointing to the fact that voluntary surrender of child avoids traumatic reactions of the child and harmful consequences to his growth and development and similar).

Based on the results of the work of its psychologist, the custodial authority may propose to the judge more detailed requirements for the equipment of the premise where the enforcement is carried out and the manner of surrender of the child.

The psychologist of the custodial authority shall take due care of the protection of the best interests of the child, both prior and during the enforcement proceedings.

Enforced Removal and Surrender of Child

Article 376

The court notifies, according to the rules on personal delivery, the party that filed a motion for enforcement and the person to whom the child is to be surrendered, of the time and the place of removal and surrender of the child.

The child shall be coercively removed and surrendered by the judge in cooperation with the psychologist of the custodial authority, the school, the family counseling unit and other specialized institutions for mediation in family relations.

The psychologist of the custodial authority shall, during removal and surrender of the child, monitor the behavior and reactions of the child and the person from whom the child is seized, provide

support with the aim of preventing or restraining behavior that could cause conflict or traumatic reaction of the child, advise the judge how to carry out removal and surrender of the child with the least amount of damage to the growth and development of the child, and take, on his own, all measures necessary for the said purposes and enter his observations into the minutes on removal and surrender of the child and sign it.

Enforcement in Case of Ordered Immediate Surrender of the Child

Article 377

When the writ of execution calls for immediate surrender of child, the writ of execution is served on a person from whom the child is removed while implementing the first enforcement action. If that person is not present during the removal of the child, the writ of execution is served on him at a later date.

If the child is removed from a person to whom the enforcement document does not pertain, such person is served with the writ of execution and the minutes on child removal.

The absence of the person from whom the child is removed does not prevent the removal of the child.

Repeated Enforcement

Article 378

Upon a motion of a party, the court repeats enforcement of the same writ of execution, should the child, contrary to the writ of execution, and within the term of 60 days from the moment of surrender, is found again with the person from whom it was removed.

2. Enforcement for the Purpose of Maintaining Personal Relations with Child

Article 379

Certain provisions of this Chapter of the Law are applied *mutatis mutandis* in the enforcement proceedings dealing with maintaining personal relations with the child (Articles 368, 370, 371, 375, 376 and 377).

3. Enforcement for the Purpose of Protection against Domestic Violence, Protection of the Child's Rights and Other Decisions Pertaining to Family Relations

Article 380

Depending on the obligation of the enforcement debtor, the provisions of this Chapter of the Law are applied *mutatis mutandis* to the enforcement proceedings aimed at protection against domestic violence, protection of the child's rights and enforcement of other decisions pertaining to family relations.

Chapter Six

ENFORCEMENT FOR EMPLOYEE REINSTATEMENT

Territorial Jurisdiction

Article 381

A court on whose territory are the employer's registered headquarters, also has the territorial jurisdiction to rule on the motion for enforcement and to carry out the enforcement of the employer's obligation to reinstate an employee or to assign him to a certain task.

Deadline for Filing the Motion for Enforcement

Article 382

The motion for enforcement may not be filed after the expiry of 60 days from the moment the enforcement creditor became entitled to file such a motion.

Manner of Implementing Enforcement

Article 383

Enforcement for reinstatement of an employee or for the purpose of his assignment to certain tasks is carried out by levying a fine on the employer or its authorized person, in compliance with the provisions on levying a fine for the purpose of undertaking an action which may be performed solely by the enforcement debtor (Article 363).

The levying of a fine ceases once the court determines that the employee has begun working on the appropriate tasks or that he was provided the opportunity to do so, but he declined to work, i.e. that he was assigned to the tasks specified in the enforcement document.

Compensation of Lost Wage in Case of Employee Reinstatement

Article 384

The court may, upon the motion of the enforcement creditor who has requested to return to work, issue a writ which has the effect of a writ of execution, obligating the employer to pay to the enforcement creditor the monthly amounts of wage due from the finality of the judgment until the return of the enforcement creditor to work (compensation of the lost wage).

Compensation of the lost wage is determined in the amount that the enforcement creditor would have received if he had been at work, along with the taxes and contributions paid from the wage.

The motion for compensation of the lost wage may be submitted joined with the motion for enforcement for the purpose of reinstatement, or later, up until the finalization of the enforcement proceedings.

The employer may motion to the court to nullify the writ on compensation of the lost wage, should the circumstances based on which such writ was issued, change after its issuance.

Possibility of a Civil Lawsuit

Article 385

Should the court fail to adopt or only partially adopts the motion for compensation of the lost wage, the enforcement creditor may claim the wage or its remaining part in a civil lawsuit.

Chapter Seven

ENFORCEMENT OF DECISION ON PARTITION OF JOINTLY OWNED ASSET

Territorial Jurisdiction

Article 386

The court on whose territory the jointly owned asset is located also has the territorial jurisdiction to rule on a motion for enforcement for the purpose of partition of a jointly owned asset.

Physical Partition

Article 387

Physical partition of the asset is carried out by the public enforcement officer.
He invites all participants in the enforcement proceedings to be present at the partition.

Partition by Sale of Asset

Article 388

If, pursuant to the enforcement document, the asset should be sold with the aim of partition, the provisions on enforcement for the purpose of settling the monetary claim on immovable property or movable asset are applied *mutatis mutandis*, unless the parties agree differently on particular issues.

The enforcement debtor may purchase the asset, and in the sale procedure he does not pay the security.

The provisions on settlement of monetary claims by transfer of ownership over the asset to the enforcement creditor (Art. 190, 191 and 248) are not applied in the proceedings of partition by sale of immovable property or movable asset.

Expenses of Enforcement Proceedings

Article 389

The expenses of the enforcement proceedings are borne by all co-owners, in proportion to their shares in asset.

A co-owner who has caused additional expenses to the other co-owner shall reimburse them.

Chapter Eight

OBTAINING STATEMENT OF WILL

Unconditional Claim

Article 390

The enforcement debtor, who is obligated to make a statement of will, is deemed to have given such a statement at the moment of finality of the decision.

If an enforcement debtor has been obligated to make a statement of will by a court or administrative settlement, or by a public notary record on settlement, it is deemed that such statement was made when his obligation was due.

Conditional Claim

Article 391

If the provision of the statement of will depends on the fulfillment of an obligation of the enforcement creditor or occurrence of a condition, it is deemed that the enforcement debtor has provided the statement once the enforcement creditor has fulfilled his obligation or once the condition has occurred.

The occurrence of the condition is proven with a public or legally certified document.

The public enforcement officer, upon the request of the enforcement creditor, determines when the statement of will has been given.

Part Five

SETTLEMENT OF MONETARY CLAIMS STEMMING FROM UTILITY AND RELATED SERVICES

1. Basic Provisions

Notion of Utility and Related Services

Article 392

Utility service is deemed to be a service, which as such, is determined by a special law.

Related service, in terms of this Law, is a service of general interest which provides continuous services to a larger number of persons in a particular area and which is periodically charged.

Filing a Motion for Enforcement

Article 393

The enforcement creditor shall, prior to the 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, request from the Chamber to appoint a public enforcement officer to whom the motion for enforcement shall be submitted. The request, *inter alia*, contains the first and family name, or the business name of the parties, the permanent or temporary residence of the parties

and the registration and tax identification number, in case the party is a legal person, sole trader or natural person who performs a business activity.

The Chamber shall respond to the request of the enforcement creditor, within the term of five days from the day of receipt of such request, bearing in mind that public enforcement officers are appointed equally, according to alphabetic order of entry into the Registry of the Public Enforcement Officers and their deputies, and that a public enforcement officer on whose territory the enforcement debtor has his permanent or temporary residence, or registered headquarters, is exclusively competent to act upon the motion for enforcement.

Should the Chamber fail to respond to the request of the enforcement creditor within the term of five days, the enforcement creditor independently appoints a public enforcement officer on whose territory the enforcement debtor has his permanent or temporary residence, or registered headquarters.

The public enforcement officer shall dismiss the motion for enforcement if the enforcement creditor, along with the motion for enforcement, fails to deliver to him the Chamber's response from which it follows that exactly him was the appointed public enforcement officer, or fails to deliver the proof that the Chamber has not responded to the request of the enforcement creditor within the term of five days. An objection is allowed against the writ on dismissal of the motion for enforcement.

The submission and the contents of the request of the enforcement creditor to the Chamber, the contents of the Chamber's response and the manner in which the Chamber is to deliver the response to the enforcement creditor, is, in more detail, prescribed by the Chamber.

Special Provisions

Article 394

The writ is enforced once it becomes final.

A receipt or an extract from the company ledger on rendered utility or related services represents a credible document.

The credible document must be suitable for issuing a writ of execution based on such credible document (Article 53).

Delay of enforcement at the motion of the enforcement creditor or pursuant to the agreement of the parties, may not last longer than three months.

Dismissal or Rejection of the Motion for Enforcement

Article 395

The public enforcement officer dismisses the motion for enforcement which is not permitted or not complete or he rejects an unfounded motion.

The writ on dismissal or rejection of the motion is served on the enforcement creditor, and not to the enforcement debtor.

Objection of Enforcement Creditor

Article 396

The enforcement creditor may use an objection to contest the writ on dismissal or rejection of the motion for enforcement or to contest just a part of the writ which determines the costs of the proceedings.

An objection is filed to the court which would have ruled on the motion for enforcement if that matter was within the jurisdiction of the court.

The same court rules on the objection.

The writ issued on objection may not be contested by an appeal.

The provisions on the objection of the enforcement debtor are applied *mutatis mutandis* to the objection of the enforcement creditor, as well as to the procedure on the objection of the enforcement creditor.

Contents of the Writ

Article 397

The public enforcement officer who assesses that a motion for enforcement is permitted, complete and founded, issues a writ of execution based on a credible document.

The writ of execution compels the enforcement debtor to settle the claims of the enforcement creditor within a term of eight days from the day of serving of subject writ, along with determined costs of proceedings, and specifies the instrument and the subject of enforcement for the purpose of settling the claim of the enforcement creditor and the costs of the proceedings.

2. Objection of Enforcement Debtor

a) General Provisions

Objection

Article 398

The enforcement debtor may use the objection to contest the writ, or only a part of the writ which determines the costs of the proceedings.

The objection is submitted to the court which would have ruled on the motion for enforcement if that matter was within the jurisdiction of the court.

The same court rules on the objection.

The writ issued on the objection may not be contested by an appeal.

Should the enforcement debtor fail to submit an objection, the public enforcement officer, within the term of three days from the expiry of the deadline for objection, commences with the enforcement implementation.

Scope of Examination of the Writ

Article 399

The provisions on the scope of examination of the writ of execution based on a credible document (Article 88) are applied to the scope of examination of the writ.

Term for ruling of the Council's and Ex Officio competence of the Council

Article 400

The Council shall adopt a writ to rule on the objection within the term of 15 days from the moment when an individual judge delivers it the objection and the case files, and to dispatch the writ within the term of three business days as of the adoption.

The Council examines the first instance writ within the limits of the reasons stated in the objection, but, *ex officio*, pays attention to the application of the substantive law, whether the court is competent to issue a writ, to the subject-matter and territorial jurisdiction of the first instance court, whether the document, based on which the writ was adopted, has the virtue of a credible document,

and whether the enforcement was imposed against an asset which is untradeable.

b) Contesting Writ only in Part that Compels Enforcement Debtor to Settle Monetary Claim

Actions of Single Judge

Article 401

A single judge dismisses the objection which is not timely, complete or permitted, within the term of five days from the day of receipt of the objection, the writ and the case files, and dispatches the writ on dismissal of the objection within the term of the following three business days.

The enforcement debtor is entitled to file an objection to the panel against the writ on dismissal of the objection, within the term of three days from the day of receipt of the writ, otherwise, the single judge, immediately upon expiry of the deadline for objection, submits the case files to the public enforcement officer to carry out the enforcement.

If the objection is not dismissed, and the enforcement debtor contests the writ due to the fact that the obligation from the credible document has not arisen, the single judge, on the following business day from the day of receipt of the objection, serves the objection on the enforcement creditor, who may respond to the objection within the term of five days.

Submitting the Objection, Writ and Case Files to the Panel

Article 402

The single judge submits to the panel the objection, the writ and the case files on the following business day upon receipt of the objection against the writ on dismissal of the objection, or upon receipt of the response to the objection, or upon expiry of the deadline for the response to the objection.

If the enforcement debtor has not filed the objection due to the fact that the obligation stemming from the credible document has not arisen, but he filed it on other grounds, the single judge shall submit the objection, the writ and the case files to the panel on the following business day from the day of receipt of the objection.

Panel Actions

Article 403

In case the single judge has omitted to do so, the panel uses a writ to dismiss the objection which is untimely, incomplete or not permitted, within the term of five days from the day of receipt of the objection, the writ and the case files, and dispatches the writ on dismissal of the objection within the term of the following three business days. In such a case, the single judge immediately delivers the case files to the public enforcement officer to carry out the enforcement.

The same applies if the panel rejects the objection against the writ of the single judge on dismissal of objection.

In case the panel adopts the objection against the writ of the single judge on dismissing the objection, it immediately rules on the objection of the enforcement debtor against the writ.

The panel adopts or rejects the objection, depending on who made their claims more probable and depending on the appraisal of the reasons stated in the objection, as well as the reasons which it examines *ex officio*.

Consequences of Dismissing and Adopting the Objection

Article 404

If the panel rejects the objection, the single judge immediately delivers the case files to the public enforcement officer in order to carry out the enforcement.

Should it adopt the objection, the panel repeals the part of the writ which determines the instrument and the subject of enforcement and revokes the undertaken activities, while the proceedings continue as per objection against the payment order, and if the court does not have the subject-matter or territorial jurisdiction, the case files are immediately submitted to the competent court.

Application of Provisions on Objection against Writ of Execution Based on a Credible Document

Article 405

The provisions that govern the reasons for contesting and the contents of the objection (Article 89) that are in force when only part of the writ of execution based on a credible document is contested which compels the enforcement debtor to settle the monetary claim, apply to the reasons for contesting the writ only in the part that compels the enforcement debtor to settle the monetary claim, and to the contents of the objection.

c) Contesting the Writ only in Part Specifying the Instrument and Subject of Enforcement

Consequences of Rejection or Adoption of Objection

Article 406

If the panel rejects the objection, the single judge immediately delivers the case files to the enforcement officer to carry out the enforcement.

Should the panel adopt the objection, the single judge immediately informs the enforcement creditor that the part of the writ obligating the enforcement debtor to settle the monetary claim has become the enforcement document based on which enforcement may be requested again, either in the same or in other proceedings.

Application of Provisions on Objection against the Writ of Execution Based on a Credible Document

Article 407

The provisions on the contents of the objection of the enforcement debtor (Article 97) that are in force when only part of the writ of execution based on a credible document is contested which specifies the instrument and the subject of enforcement, apply to the contents of the objection of the enforcement debtor.

Application of Provisions on Contesting the Writ Solely in Part that Compels the Enforcement Creditor to Settle the Monetary Claim

Article 408

The provisions on the actions of the single judge (Article 401) on the submission of the objection, the writ and the case files to the panel (Article 402) and on the actions of the panel (Article 403), which are in force when only part of the writ compelling the enforcement debtor to settle the

monetary claim is contested, are applied *mutatis mutandis* to the actions of the single judge, to the submission of the objection, the writ and the case files to the panel and to the actions of the panel.

The single judge does not deliver the objection to the enforcement creditor for response.

d) Contesting the Writ in its Entirety

Actions of the panel

Article 409

The provisions on the actions of the panel and the single judge (Article 403, paras. 1-3) that are in force when only part of the writ that compels the enforcement debtor to settle the monetary claim is contested, apply *mutatis mutandis* to the actions of the panel and the single judge, once the panel receives the objection, the writ and the case files.

Panel's Ruling

Article 410

The provisions on the order of examination and the panel's decisions (Article 104) which are in force when the entire writ of execution based on a credible document is contested, apply to the order of the examination of the writ, and to the decisions of the panel.

Consequences of Adopting and Rejecting Objection

Article 411

If the panel rejects the objection in its entirety, the single judge immediately delivers the case files to the public enforcement officer with the aim of enforcement.

Should the panel adopt the objection in its entirety, it repeals the part of the writ specifying the instrument and the subject of enforcement and revokes the implemented actions, while the procedure continues as per objection against the payment order. If the court does not have the subject-matter or the territorial jurisdiction, the case files are immediately submitted to the competent court.

Should the panel adopt a writ on rejection of the objection against the part of the writ obligating the enforcement debtor to settle the monetary claim, and on concurrent adoption of the objection against the part of the writ specifying the instrument and the subject of enforcement, the single judge immediately informs the enforcement creditor that part of the writ obligating the enforcement debtor to settle the monetary claim has become an enforcement document pursuant to which enforcement may be requested again, either in the same or in other proceedings.

Application of Provisions on Objection against the Writ of Execution Based on Credible Document

Article 412

The provisions on the contents of the objection of the enforcement debtor which are in force when the entire writ of execution based on a credible document is contested (Article 102), are applied to the contents of the objection of the enforcement debtor.

Application of Provisions on Contesting the Writ Solely in Part Obligating the Enforcement Creditor to Settle the Monetary Claim

Article 413

The provisions on the actions of the single judge (Article 401) and on the submission of the objection, the writ and the case files to the panel (Article 402) which are in force when part of the writ obligating the enforcement debtor to settle the monetary claim is contested, are applied *mutatis mutandis* to the actions of the single judge and to the submission of the objection, the writ and the case files to the panel.

Part six SECURITY INTEREST

Chapter One GENERAL RULES

Instruments of Security Interest

Article 414

The instruments of security interest are acquiring the right of pledge on immovable property or movable asset under the agreement of the parties, acquiring the right of pledge on immovable property and moveable asset, preliminary measures, and interim measures.

Motion for Security Interest

Article 415

Security interest proceedings are initiated upon a motion of a party, as well as upon motion of other persons or authorities, only when provided by law.

A motion for security interest precisely specifies the claim whose securing is requested, the legal grounds for security interest, the facts and evidence proving the probability of existence of legal grounds for security interest, and the type of instrument of security interest.

Motion for Security through Preliminary and Interim Measure

Article 416

The motion for imposing the preliminary or interim measure also specifies the type of preliminary or interim measure and its duration, and the motion for determining the interim measure also specifies the instrument and the subject of its enforcement.

When specifying the instrument and the subject by which the interim measure is enforced, the provisions on instruments and subjects of enforcement for the purpose of realizing claims pursuant to the writ of execution are applied *mutatis mutandis*.

The motion for determining the interim measure is dismissed in a writ, unless it contains the instruments and the subject of enforcement of the interim measure, without prior return for amendment.

In the motion, the enforcement creditor shall indicate an individually specified public enforcement officer with territorial jurisdiction to carry out the enforcement.

Multiple Preliminary and Interim Measures

Article 417

The enforcement creditor may propose that one or multiple preliminary or interim measures are imposed so that they are enforced simultaneously, or so that the next measure is enforced if the previous one was sufficient to secure a claim.

The provisions governing the case when the motion for enforcement specifies multiple instruments and subjects of enforcement (Article 57) are applied *mutatis mutandis*.

Deciding on Motion for Security Interest

Article 418

The court rules on the motion for security interest with a writ to dismiss, reject, or adopt the motion.

The motion for security interest is adopted by a writ on security interest.

Exclusive Competence of the Court for Issuing Writs and Conclusions on Depositing a Security

Article 419

Courts have exclusive jurisdiction to issue writs, as well as conclusions on depositing security, within the security proceedings.

Contents of Writ on Security Interest

Article 420

The writ on security interest has the following contents: indication of the type of instrument of security interest, brief reasons of legal grounds based on which the motion for security interest has been adopted, instructions that the appeal does not delay enforcement of the writ, the time period for the appeal, to whom the appeal is submitted and who rules on it, as well as other contents stipulated by this Law.

Serving of Writ on Preliminary and Interim Measure

Article 421

The provisions specifying who serves and on whom the writ of execution is served (Article 70), are applied *mutatis mutandis* to the serving of writ on preliminary or interim measure.

Effect and Enforcement of Writ on Security Interest

Article 422

The writ on security interest has the effect of the writ of execution and is enforced prior to it being final.

The preliminary and interim measure become enforceable once the writ which imposes them is served on to the one that is compelled to undertake an action, omit an action or suffer an action.

The interim measure specifying a time period for the enforcement debtor or somebody else to undertake action becomes enforceable once the set time period unsuccessfully expires.

The preliminary and the interim measures are enforced by the public enforcement officer.

The writ on acquiring the right of pledge on immovable property and movable assets is enforced by a court.

Appeal and Objection in Security Interest Proceedings

Article 423

The parties are entitled to an appeal against the writ rendered upon the motion for security interest and against the writ on discontinuation of the security interest proceedings.

If only a part of the writ rendered upon the motion for security interest is being contested, which defines the costs of the proceedings, an objection is to be filed.

The objection is also permitted against the writ rendered upon the motion for extension of duration of the preliminary measure (Article 443, paras. 1 and 2) or of the interim measure (Article 456, paras. 3 and 4).

An appeal is not permitted against the writ issued upon objection.

Provisions on appeal against the writ of execution are applied *mutatis mutandis* to the appeal against the writ on security interest, except for the provisions on mandatory serving of appeal for the response, whereas provisions on appeal against other writs of the court in the enforcement proceedings (Articles 82-84) are applied *mutatis mutandis* to the appeal against other writs in the security interest proceedings.

Special Rules of Procedure on Security Proceedings

Article 424

The court may rule on the motion for security interest prior to serving it on the enforcement debtor and enabling him to declare his position:

- 1) If the enforcement creditor, due to the delay, could suffer irreparable damage or damage that would be hard to repair;
- 2) In order to avoid immediate danger of unlawful damage to the asset or loss or serious endangering of a right;
- 3) In order to prevent violence.

The court considers and establishes only the facts that the parties have presented and examines only the evidence proposed by the parties, unless when the coercive regulation is applied.

In the proceedings regarding securing the claims stemming from marital and family relations the public is excluded.

Illicitness of Security Interest

Article 425

Security interest is not permitted against assets and rights exempt from enforcement.

Mutatis Mutandis Application

Article 426

Provisions of the law governing the civil procedure and the provisions of this Law are

applied *mutatis mutandis* to the security interest proceedings, unless otherwise stipulated by the provisions of this part of the Law.

Chapter Two RIGHT OF PLEDGE ON IMMOVABLE PROPERTY AND MOVABLE ASSETS BY AGREEMENT OF PARTIES

Territorial Jurisdiction

Article 427

A court on whose territory the immovable property or movable asset is located has the territorial jurisdiction to rule on a motion for securing a monetary claim by acquiring a right of pledge on immovable property or movable asset under an agreement of the parties and to implement enforcement.

Motion for Security Interest

Article 428

The parties may agree to propose to the court to order the registration of the right of pledge on immovable property or movable asset of the enforcement debtor, for the purpose of securing the monetary claim of the enforcement creditor.

Hearing Session and Agreement of Parties

Article 429

Pursuant to the motion of the parties, the court shall summon a hearing wherein the agreement of the parties on the existence of the monetary claim and the time of its maturity is entered into the minutes, as well as the agreement of parties to secure the claim by a right of pledge on immovable property or movable assets after their inventory.

The signed minutes regarding the agreement of the parties has the effect of a court settlement, and represents grounds for the registration of the right of pledge on immovable property or movable asset.

The party submits the minutes containing the agreement of the parties to the authority maintaining the cadastre of immovable property, i.e. the Pledge Register.

The right of pledge is acquired at the moment of registration of the minutes containing the agreement of the parties into the cadastre of immovable property or the Pledge Register.

Mutatis Mutandis Application

Article 430

The provisions on enforcement with the aim of settling the monetary claim against the immovable property which has not been registered into the cadastre of immovable property (Art. 209 and 210) is applied *mutatis mutandis* to the acquiring of the right of pledge on immovable property that has not been registered into the cadastre of immovable property.

Chapter Three

RIGHT OF PLEDGE ON IMMOVABLE PROPERTY AND MOVABLE ASSETS BASED ON MONETARY CLAIM FROM ENFORCEMENT DOCUMENT

1. Acquiring Right of Pledge on Immovable Property

Territorial Jurisdiction

Article 431

A court on whose territory the immovable property is located has the territorial jurisdiction to rule on a motion for securing a monetary claim by acquiring the right of pledge on immovable property and for the implementation of security interest.

Writ on a Motion for Security

Article 432

At the motion of the enforcement creditor based on enforcement document made out to a monetary claim, the court orders the registration into the cadastre of immovable property of the right of pledge of the enforcement creditor against the immovable property of the enforcement debtor.

The motion for security interest has the same contents as the motion for enforcement.

The enforcement creditor shall, along with the motion, provide the extract from the cadastre of immovable property, so as to prove that the immovable property has been registered as ownership of the enforcement debtor, or other document suitable for registration of ownership of the enforcement debtor, in case other person has been registered as the owner in the cadastre of immovable property.

Manner of Acquiring the Right of Pledge on Immovable Property

Article 433

Right of pledge on immovable property is acquired at the moment of registration into the cadastre of immovable property.

Mutatis Mutandis Application

Article 434

Institution of the right of pledge on immovable property which has not been entered into the cadastre of immovable property is subject to *mutatis mutandis* application of provisions on enforcement for the purpose of settling the monetary claim on immovable property which has not been registered in the cadastre of immovable property (Art. 209 and 210).

2. Acquiring Right of Pledge on Movable Assets by Entry into the Pledge Register

Territorial Jurisdiction

Article 435

A court on whose territory the movable asset is located has the territorial jurisdiction to rule on a motion for securing the monetary claim by acquiring the right of pledge on a movable asset and for enforcement of security interest.

Writ on Security Interest

Article 436

Upon the motion of the enforcement creditor, based on the enforcement document that is made out to the monetary claim, the court orders the Pledge Register to register the right of pledge of the enforcement creditor, at his cost, against the movable asset.

Acquiring the Right of Pledge and Safekeeping of the Movable Asset

Article 437

A right of pledge on a movable asset is acquired at the moment of registration of the right of pledge in the Pledge Register.

The provisions on safekeeping a movable asset in case of enforcement for the purpose of settling a monetary claim on a movable asset (Art. 229 and 230) are applied to the safekeeping of the movable asset.

Chapter Four PRELIMINARY MEASURES

Territorial Jurisdiction

Article 438

A court that would have jurisdiction to rule on a motion for enforcement has the territorial jurisdiction to rule on a motion for imposing a preliminary measure.

Conditions for Imposing a Preliminary Measure

Article 439

A preliminary measure secures a monetary claim.

The preliminary measure is imposed based on a domestic decision which has not become final, or a domestic court or administrative settlement or a public notary record on settlement under which the settlement has not matured, or based on a domestic writ of execution pursuant to a credible document issued based on a promissory note or a check.

Apart from that, for a preliminary measure to be imposed, the enforcement creditor shall prove a probability that there is a danger that the satisfaction of his claim, without a preliminary measure,

would be obstructed or significantly interfered with.

Presumed Danger to Claim

Article 440

It is deemed that there is a danger of obstruction or significant interference with settlement of a claim if a motion for imposing a preliminary measure is based on:

- 1) Writ of execution based on a credible document issued on the basis of a promissory note or a check against which a timely objection has been filed;
- 2) Judgment issued in criminal proceedings containing an adopted damages claim and against which a motion for repeating criminal proceedings has been filed;
- 3) Ruling which should be enforced abroad, even when such enforcement is under the jurisdiction of a domestic court;
- 4) Judgment issued on the basis of admission against which an appeal has been filed;
- 5) Court or administrative settlement or a public notary record on settlement which is contested in a manner stipulated by the law.

In case a motion is based on a judgment issued on the basis of an admission against which an appeal has been filed, or on a court or administrative settlement or a public notary record on settlement which is contested in a manner prescribed by the law, the court may, upon the motion of an enforcement debtor, condition the imposing or maintaining the preliminary measure by depositing a security by the enforcement creditor, for damages which the enforcement debtor could suffer due to the preliminary measure.

Should the enforcement creditor fail to deposit a security within a deadline set by the court, the court issues a writ to reject the motion for imposing the preliminary measure, or issues a writ to discontinue the enforcement proceedings.

A Preliminary Measure for Securing Installments which have not matured

Article 441

Non-matured installments of a claim on the grounds of statutory maintenance, compensation for health impairment, annuity for complete or partial loss of working capacity, and annuity for maintenance that is lost due to death of maintenance provider, are secured by a preliminary measure only if they mature within one year from the filing of the motion to impose the interim measure.

It is assumed that a danger that might obstruct or significantly interfere with the satisfaction of the claim for non-matured installments exist even if enforcement proceedings have already been administered against the enforcement debtor with the aim of collecting the matured installments or if a motion for enforcement has been filed with the aim of collecting a matured installment.

Contents of a Writ on Preliminary Measure. Duration of Preliminary Measure

Article 442

A writ on preliminary measure, *inter alia*, contains the precisely stated monetary claim to be secured, with interest and costs of proceedings, the type of preliminary measure and the duration of the preliminary measure.

The preliminary measure may last the longest until the expiry of 15 days from fulfillment of conditions for submission of motion for enforcement.

Extension of Duration of a Preliminary Measure

Article 443

Should the duration of a preliminary measure expire prior to the moment the ruling becomes enforceable, the court, upon the motion of the enforcement creditor, issues a writ to extend its duration, if conditions under which it was imposed have remained unchanged. The enforcement creditor shall file a motion prior to the expiry of the preliminary measure.

The court discontinues the security interest proceedings, if within the term of 15 days from the expiry of the preliminary measure, the conditions for the filing of a motion for enforcement have not been fulfilled, and the enforcement creditor, up to that moment, has not motioned for the extension of the measure.

If conditions for the filing of motion for enforcement have been fulfilled prior to expiry of the duration of the preliminary measure, the court, upon the motion of the enforcement debtor, discontinues the security interest proceedings, but the enforcement creditor may maintain the preliminary measure until the submission of the motion for enforcement, if he submits it within the term of 15 days from the fulfillment of conditions for that.

Repealing the Preliminary Measure

Article 444

The court, upon the motion of the enforcement debtor, issues a writ to discontinue the security interest proceedings and repeals the preliminary measure and all actions that have been taken:

- 1) If the enforcement debtor deposits with the court, or with the public enforcement officer the claim which is being secured, including the interest and costs of the proceedings;
- 2) If the enforcement debtor proves that the claim has been collected or sufficiently secured;
- 3) If it has been determined, pursuant to a final decision, that the claim has not arisen or that it ceased to exist;
- 4) If a decision or a court or administrative settlement or a public notary record on settlement, on which the preliminary measure is based, cease to be in force.

In case the security interest proceedings were discontinued, but not because the enforcement debtor has deposited a claim which is being secured (paragraph 1, item 1) of this Article), but for other reasons (paragraph 1, items 2) - 4) of this Article), the enforcement creditor shall reimburse the enforcement debtor for the costs of the security interest proceedings.

Types of Preliminary Measures

Article 445

The types of preliminary measures are as follows:

- 1) Inventory of movable assets and registration of the right of pledge on inventoried movable assets in the Pledge Register;
- 2) Attachment of a monetary claim of the enforcement debtor and acquiring the right of pledge over it;
- 3) Order to the organization for enforced collection to instruct the banks maintaining the accounts of the enforcement debtor to transfer the monetary funds in the amount of the secured claim to the deposit of the public enforcement officer;
- 4) Registration of a ban on disposal of financial instruments and registration of the right of pledge over them in the Central Securities Depository;
- 5) Registration of the right of pledge of the enforcement creditor against the stake of the enforcement debtor in a limited liability company, partnership company or limited partnership into

the Pledge Register and registration of attachment of stake in the Register of Companies;

6) Attachment of claim of the enforcement debtor to have the immovable property or a specific movable asset surrendered to him, or to have a certain amount of movable assets delivered to him, and the acquiring of the right of pledge over the attached claim;

7) Prenotation of the right of pledge on immovable property owned by the enforcement debtor, or on the right of the enforcement debtor registered against the immovable property.

Sale of Deposited Movable Assets and Transfer of Claim of Enforcement Debtor

Article 446

The public enforcement officer may order for the deposited movable assets to be sold if they are perishable, or if there is a danger of significant decrease in their value.

The assets are sold according to provisions on enforcement aimed at settling of a monetary claim against a movable asset (Art. 218-255).

If a preliminary measure comprises of the attachment of a monetary claim of the enforcement debtor and acquiring of the right of pledge against it, the public enforcement officer may, upon the motion of the party, order for the claim to be transferred to the enforcement creditor with the aim of collection, if there is a danger that, due to a delay in its fulfillment, it shall not be collectable, or that the right to a recourse against another person would cease.

The amount obtained through the sale of movable asset and collection of claim is put to safekeeping at the public enforcement officer until the security interest proceedings have been discontinued, or until a motion for enforcement has been filed, but not longer than 30 days from fulfillment of conditions for filing the motion for enforcement.

Chapter Five INTERIM MEASURES

1. General Provisions

Until When an Interim Measure may be imposed

Article 447

A court may impose an interim measure prior to, during or after the court or administrative proceedings and until the enforcement has been carried out.

Apart from securing claims which comprise of giving, acting, omitting or suffering, the interim measure may also be imposed to secure a claims which consist of the request to determine the existence, or non-existence of a right or a legal relation, breach of personal right and the accuracy, or inaccuracy of a document, or the request for the transformation of a material or procedural relation.

Territorial Jurisdiction of the Court

Article 448

In case the motion for imposing an interim measure has been filed prior to, during or after the civil or other proceedings in which the merits of a claim is being decided on, the securing of which is requested, or simultaneously with the initiation of the proceedings, the motion is ruled on by the

court which rules in the first instance on the merits of the claim.

In case the motion has been filed prior to initiation or during the course of the arbitration proceedings, the motion is ruled on by the court which would have had the territorial jurisdiction for ruling on the motion for enforcement.

In case the motion has been filed during the enforcement carried out by the public enforcement officer, the motion is ruled on by the court which issued the writ of execution, and if the enforcement is carried out by the court, the subject court also rules on the motion.

Conditions for Imposing an Interim Measure

Article 449

An interim measure secures a monetary or non-monetary claim, whose existence is made probable by the enforcement creditor.

In order to impose the interim measure for securing a monetary claim, the enforcement creditor, apart from the probability of the existence of the claim, shall make it probable that without an interim measure the enforcement debtor would prevent or significantly interfere with the collection of the claim by alienating his property or funds, hiding them, or otherwise disposing them (danger for the claim).

In order to impose an interim measure for securing the non-monetary claim, the enforcement creditor, apart from the probability of the existence of the claim, shall also make it probable that without an interim measure the satisfaction of his claim would be prevented, or significantly interfered with, or that force would be applied, or irreparable damages would be incurred (danger for the claim).

The interim measure may also secure the non-matured, conditional and future claims.

The enforcement creditor shall not prove the danger for the claim, if he makes it probable that the enforcement debtor may suffer only minor damage caused by the interim measure, or that the claim is to be satisfied abroad.

Presumed Danger to a Monetary Claim

Article 450

It is deemed that a danger for the monetary claim exists:

- 1) If, with the aim of collecting the mature installments of statutory maintenance, the enforcement proceedings have already been carried out against the enforcement debtor;
- 2) If the claim is to be satisfied abroad, even when a domestic court has the territorial jurisdiction for the enforcement;
- 3) If the regular income of the enforcement debtor is smaller than his legal liabilities and those determined by a final ruling of a court and other authority;
- 4) If enforcement has been attempted against the enforcement debtor, which was unsuccessful because he has refused to provide the data on the whereabouts of his property.

Security in Lieu of an Interim Measure

Article 451

The enforcement creditor may, in the motion for imposing an interim measure or later on, declare that, instead of imposing an interim measure, he is satisfied to have the enforcement debtor deposit a security in the amount and at the time as ordered by the court in its writ.

Depositing security in lieu of an interim measure may also be granted upon the motion of the enforcement debtor, filed prior to or after the imposing of an interim measure.

If the security is deposited prior to imposing an interim measure, the court rejects the motion for imposing the interim measure, and if the security is deposited after that, the court discontinues the enforcement proceedings.

Security as Condition for Imposing Interim Measure

Article 452

The court may order an interim measure upon the motion of the enforcement creditor even when the enforcement creditor fails to make probable the existence of a claim and the danger to the claim, if he deposits a security within a time limit set forth by the writ on interim measure, for the damages which might be incurred to the enforcement debtor by imposing and enforcing the interim measure.

Until the pledge has been deposited, the interim measure is not enforced, and if the security is not deposited within a time limit, the court discontinues the enforcement proceedings.

Upon the motion of the enforcement debtor, the court may, depending on the circumstances, issue a writ on the interim measure or adopt a conclusion later on to order the enforcement creditor to deposit a security, even when he made probable that claim exists and that it is in danger.

Contents of the Writ on Interim Measure

Article 453

The writ on the interim measure, *inter alia*, contains a precisely specified claim that is being secured, the type of the interim measure and the instruments and the object used to enforce the subject measure.

Effects of Interim Measures

Article 454

The writ on interim measure does not represent grounds for acquiring the right of pledge in favor of the enforcement creditor.

The enforcement creditor may, from the person who was obliged to comply with the interim measure, request compensation of damages he sustained by noncompliance with the subject measure.

Illicitness of Interim Measure

Article 455

It is not allowed to impose the interim measure with the aim of securing a monetary claim, if there are conditions to impose other instrument of security that achieves the same objective.

Duration of Interim Measure

Article 456

The duration of the interim measure is determined by the writ that imposes the interim measure.

If the writ on the interim measure has been issued prior to the initiation of the civil or other lawsuit, or with the aim of securing a future claim, such writ defines the deadline during which the enforcement creditor shall file a complaint or initiate another procedure for the purpose of justifying the interim measure.

At the motion of the enforcement creditor, the court extends the duration of the interim measure, if conditions under which such measure has been ordered, have not changed.

The enforcement creditor shall, prior to expiry of the interim measure, file a motion to extend its duration.

Repealing an Interim Measure

Article 457

Upon the motion of the enforcement debtor, the court discontinues the security interest proceedings and repeals the interim measure and all undertaken actions:

- 1) If the enforcement creditor fails to lodge a complaint within the time period stipulated by the interim measure, or fails to initiate other proceedings with the aim of justifying the interim measure;
- 2) Upon expiry of the interim measure;
- 3) If the conditions under which the interim measure has been imposed, have changed in such a manner that it is no longer required;
- 4) If the enforcement debtor deposits with the court, or the public enforcement officer, the claim which is being secured, including the interest and costs of the proceedings;
- 5) If the enforcement debtor proves that the claim has been collected or sufficiently secured;
- 6) If it has been determined, pursuant to a final decision, that a claim has not arisen or that it ceased.

Compensation of Enforcement Debtor's Damages

Article 458

The enforcement debtor is entitled to claim the damages from the enforcement creditor sustained by the interim measure which ungrounded or unjustified by the enforcement creditor.

The right to compensation of damages is realized in a civil lawsuit.

2. Types of Interim Measures for Securing Monetary Claim

Article 459

In order to secure a monetary claim, any measures achieving the objective of such security may be ordered, in particular:

- 1) Prohibiting the enforcement debtor to dispose of, or encumber movable assets in his ownership, and, when needed, seizing such movable assets from the enforcement debtor and entrusting them to the enforcement creditor or another person or court deposit for safekeeping;
- 2) Prohibiting the enforcement debtor to dispose of, or encumber immovable property in his ownership or other real estate rights recorded in his favor in the cadastre of immovable property, along with an annotation of such prohibition in the cadastre of immovable property;
- 3) Prohibiting the enforcement debtor's debtor to disburse the debtor's claim or to surrender the asset to the enforcement debtor, and prohibiting the enforcement debtor to receive disbursement of claim, or accept the asset and to dispose of them;
- 4) Instructing the enforced collection organization to instruct the banks that maintain the enforcement debtor's accounts to transfer the monetary funds in the amount of the secured claim to the deposit of the public enforcement officer;
- 5) Instructing the Central Securities Depository to make an annotation of the prohibition of disposal and encumbrance of shares of the enforcement debtor and to make an annotation of prohibition to the enforcement debtor to use the right of vote from shares and to dispose of it;

6) Seizing of cash or securities from the enforcement debtor and their deposit in the court deposit or at the public enforcement officer.

3. Types of Interim Measures for Securing Non-Monetary Claim

Article 460

In order to secure a non-monetary claim, any measure achieving the objective of such security may be ordered, in particular:

- 1) Prohibiting the enforcement debtor to dispose of, or encumber the movable assets that are subject of the claim of the enforcement creditor and, when needed, seizing them from the enforcement debtor and entrusting them to the enforcement creditor or another person or court deposit, for safekeeping;
- 2) Prohibiting the enforcement debtor to dispose of, or encumber the immovable property which is subject of the claim of the enforcement creditor, along with making an annotation of such prohibition in the cadastre of immovable property;
- 3) Prohibiting the enforcement debtor to undertake actions which could cause damage to the enforcement creditor and prohibiting the modification of the asset which is the subject of the claim of the enforcement creditor;
- 4) Prohibiting the enforcement debtor's debtor to surrender the asset which is the subject of the enforcement creditor's claim, to the enforcement debtor;
- 5) Instructing the Central Securities Depository to make an annotation of the prohibition of disposal and encumbrance of shares which are the subject of the claim of the enforcement creditor, and to make an annotation of prohibition against the enforcement debtor to exercise the right of vote from shares and to dispose of it;
- 6) Ordering the enforcement debtor to undertake specific actions necessary for protection of immovable property or movable asset, and prevention of their physical alteration, damaging or destruction;
- 7) Temporary regulation of a disputed relationship, if that is needed to prevent danger of violence or severe irreparable damage.

Chapter Six REGISTRY OF COURT PROHIBITIONS

1. General Provisions

Notion

Article 461

The Registry of Court Prohibitions (hereinafter: the Registry) is a public registry containing data on interim measures adopted before, during or after the court proceedings prohibiting disposal, or encumbrance of the movable assets, immovable property or real estate rights on immovable property.

The Registry is a unified, central electronic database where all data entered into the Registry are safe kept.

Jurisdiction for Registry Keeping, Appointment and Dismissal of Registry Keeper

Article 462

The Registry is kept by the Business Registers Agency through a Registry Keeper.

Registry Keeper is appointed and dismissed according to the law governing the Business Registers Agency.

Interim Measures Being Registered

Article 463

Upon the request of the enforcement creditor, the following is entered in the Registry:

- 1) Prohibition to the enforcement debtor to dispose of, or encumber the movable assets in his ownership or the movable assets which are subject of the claim of the enforcement creditor;
- 2) Prohibition to the enforcement debtor to disposing of, or encumber the immovable property in his ownership or other real estate rights on immovable property or immovable property that is the subject of the claim of the enforcement creditor.

Data Subject to Registration

Article 464

The following is entered into the Registry:

- 1) Data on the interim measure: name of the court that adopted the writ on the interim measure, reference number and date of the writ on the interim measure, contents and duration of the interim measure;
- 2) Data on the enforcement debtor;
- 3) Data that define the immovable property or movable asset to which the interim measure relates;
- 4) Data on the discontinuation of the security interest proceedings due to the interim measure;
- 5) Other data pursuant to a special law.

If the enforcement debtor is a domestic natural person, the data relating to such person entered into the Registry comprise of the first and family name, unique master citizen number, and permanent residence, while in the case of a foreign natural person - first name, family name, permanent residence or temporary residence, passport number and the country of issue of the passport.

If the enforcement debtor is a domestic legal person, the data relating to such person entered into the Registry comprise of the business name and the registration number, and in case of a foreign legal person - the business name, foreign business registry number and name of such registry and the state where the registered headquarters of the subject legal person is located.

At the request of an interested party, any changes in registered data are entered into the Registry.

Accessibility of Registry and Publicity of Data

Article 465

The Registry is accessible to all persons for purposes of data registration and deletion, inspection of documentation and search of data.

Data contained in the Registry are publicly available online at the Registry web page.

Anyone is entitled, in compliance with regulations, to request an extract on the data from the

Registry and extract that confirms that the Registry does not contain data on the prohibition of disposal or encumbrance of the immovable property, or a real estate right on it, or prohibition of disposal or encumbrance of a movable asset.

2. Procedure of Entry into Registry

Article 466

All issues relating to the procedure entry into the Registry are governed by the law regulating the registration procedure with the Business Registers Agency, unless otherwise stipulated by this Law.

3. Effect of Entry of Data in the Registry on Third Parties

Article 467

No one may claim, from the moment of registration that he was either unaware of the prohibition of disposal or encumbrance of the movable asset, or ignorant of the data entered and related to it in the Registry.

The same also applies to immovable property that has not been entered in the cadastre of immovable property.

It is assumed that the buyer of a movable asset, subject to a prohibition of disposal or encumbrance not entered in the Registry, acted in good faith when performing the purchase, as well as the buyer of immovable property which has not been entered in the cadastre of immovable property, if the prohibition of its disposal or encumbrance has not been entered into the Registry.

Part seven PUBLIC ENFORCEMENT OFFICERS

Chapter One GENERAL PROVISIONS

1. Fundamentals of Status of Public Enforcement Officers

Public Authorities

Article 468

The public enforcement officer exercises public authorities delegated to him by this or other law.

The public enforcement officer performs his activities either as a sole trader or a member of a partnership whose members are exclusively public enforcement officers.

Number of Public Enforcement Officers

Article 469

The number of public enforcement officers is determined by the minister.

As a rule, one public enforcement officer is appointed for each 25,000 inhabitants.

The minister may determine that more than one public enforcement officer is appointed for each 25,000 inhabitants, depending on the needs or upon a reasoned motion of the Chamber.

Fee Schedule of the Public Enforcement Officer

Article 470

An enforcement officer is entitled to remuneration for his work and to reimbursement of expenses, according to a Schedule of Fees for public enforcement officers.

The Schedule of Fees is prescribed by the minister.

2. Commencement of Activity of the Public Enforcement Officer

Conditions of Appointment of the Public Enforcement Officer

Article 471

Public enforcement officer is appointed by the minister, for the territory of a higher court and the territory of a commercial court.

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

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

A person who has been dismissed from office of a public enforcement officer or a notary public, who was imposed with a disciplinary measure strike of off from the directory of attorneys, or was discharged from a judicial position, or the position of a public prosecutor or deputy public prosecutor, may not be appointed as the public enforcement officer.

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

Public Enforcement Officer Examination

Article 472

The public enforcement officer exam may be taken by a person who has graduated from the Faculty of Law and has at least two years of working experience in legal affairs.

The Ministry keeps a record on all persons with a passed exam for the public enforcement officer, which contains the name and family name, date of birth, unique master citizen number, permanent residence, date of exam and the result achieved on the exam.

The program for the public enforcement officer exam, the manner of taking the exam, keeping records on persons who have passed the exam for the public enforcement officer and other issues significant for the examination are prescribed in more detail by the minister.

Examination Commission

Article 473

The public enforcement officer exam is taken in front of the examination commission, appointed by the minister.

The composition and the manner of operation of the examination commission are prescribed by the minister.

The members of the examination commission receive remuneration for their work in the commission, the amount of which is determined by the minister.

Public Competition

Article 474

Public enforcement officers are appointed after a public competition announced by the minister, and administered by the competition commission.

The competition commission has five members, appointed by the minister.

Two members of the competition commission are the public enforcement officers appointed from the list proposed by the Chamber.

The public competition procedure, the composition of the public commission and the manner of its operation are prescribed in more detail by the minister.

Benchmarks for Proposing a Candidate for a Public Enforcement Officer

Article 475

The competition commission prepares a reasoned proposal of candidates for appointment and forwards it to the minister.

While drafting the proposal of candidates, the competition commission takes into account the length and the type of the working experience gained in legal affairs, the general achievement on the bar exam and the public enforcement officer exam, as well as the professional knowledge and skills useful for the performance of the public enforcement officer's activities (expert specializations, knowledge of a foreign language, and similar).

Appointment of Public Enforcement Officer

Article 476

The minister issues a writ to appoint the public enforcement officer, among the proposed candidates.

The writ on appointment of the public enforcement officer is published in the "Official Herald of the Republic of Serbia".

When appointing the public enforcement officer, special attention is paid to the national composition of the population, the appropriate presence of members of national minorities and the knowledge of the legal terminology in the language of a national minority which is in official usage on the territory of the unit of local government where the registered headquarters of the public enforcement officer are located.

The writ on appointment is final in the administrative proceedings.

Taking the Oath for the Public Enforcement Officer

Article 477

The public enforcement officer takes the oath before the minister, within the term of 30 days from the day of receipt of the writ on appointment.

The oath states: "I hereby honorably swear that I shall respect the Constitution and the laws of the Republic of Serbia and that I shall perform the office of the public enforcement officer conscientiously, impartially, and devotedly."

Should the public enforcement officer unjustifiably fail to take the oath within the term of 30 days from the day of receipt of the writ on appointment, it is deemed that he has not been appointed.

The minister issues a writ to establish that the public enforcement officer has not been appointed. The writ of the minister is final in the administrative proceedings.

The Minister may appoint another candidate for the public enforcement officer, who has been proposed by the competition commission.

Conditions to be fulfilled prior to Taking the Oath

Article 478

Prior to taking the oath, the public enforcement officer shall:

- 1) Conclude an insurance contract for potential damage to third parties in the course of his activities, and an insurance contract for premises and items taken in deposit, for the occurrence of their damaging, destruction or loss;
- 2) Make an official seal and stamp.

Proof that the contracts have been concluded and the official seal and stamp made are submitted to the ministry within the term of 25 days from the day of receipt of the writ on appointment.

Commencement of Office of the Public Enforcement Officer

Article 479

The Chamber issues a writ on commencement of office to the public enforcement officer, within the term of 15 days from the day of taking the oath.

The writ on commencement of office also contains the day when the public enforcement officer is to commence office and the subject writ is published in the "Official Herald of the Republic of Serbia".

It is deemed that the public enforcement officer was not appointed if he unjustifiably fails to commence working on the day set forth in the writ on commencement of office.

The minister issues a writ that it is deemed that the public enforcement officer has not been appointed. The writ of the minister is final in the administrative proceedings.

The Minister may appoint another candidate for the public enforcement officer, who has been proposed by the competition commission.

Conditions to be fulfilled prior to Commencement of Office

Article 480

Prior to commencement of office, the public enforcement officer shall:

- 1) Provide office space and equipment necessary for performance of enforcement and security interest;

2) Pay the Chamber the registration fee.

The Chamber determines whether the appointed enforcement officer has fulfilled the conditions related to the office furnishing and the equipment necessary for work.

Bylaws Related to Commencement of Office

Article 481

The minister prescribes the general provisions for concluding insurance contracts for the damages that a public enforcement officer might cause to another person while performing his activity, and the insurance contract covering the premises and objects accepted in deposit in case of their damage, destruction or disappearance, as well as the lowest amount of both insurances.

The conditions relating to the office space, equipment necessary for implementation of enforcement and security interest and the registration fee, are prescribed by the Chamber.

Plaque, Seal and Stamp

Article 482

The public enforcement officer displays on the building where his office is located a plaque inscribed with the name and the coat of arms of the Republic of Serbia, the words "Public Enforcement Officer" and the his first and family name. In the event that the registered seat of the public enforcement officer is located in the territory of a unit of local government where the language and script of a national minority are in official use, the words "Public Enforcement Officer" are inscribed on the plaque in the language and script of such national minority too.

The public enforcement officer has a seal containing the name and coat of arms of the Republic of Serbia, the public enforcement officer's first and family name, the title "Public Enforcement Officer", and the seat of the public enforcement officer. The law governing the seal of state and other authorities is applied to the shape, appearance and the size of the seal.

The public enforcement officer also has a stamp containing the name of the Republic of Serbia, the public enforcement officer's first and family name, the title "Public Enforcement Officer", and the seat of the public enforcement officer. The shape, appearance and size of the stamp are regulated in more detail by the Minister.

In the event that the seat of the public enforcement officer is in the unit of local government where the language and the script of a national minority are in official use, the text of both the seal and the stamp is inscribed in its language and script.

Certified impressions of the seal and stamp are deposited with the ministry.

Signature and Identification Document. Use of Seal, Stamp and Identification Document

Article 483

The public enforcement officer has the identification document issued by the ministry, in which the first and family name of the public enforcement officer are entered, as well as the name of the courts for whose territory the enforcement officer was appointed, and the registration number of the identification document.

The form of the identification document of the public enforcement officer, issuing and destruction of the identification document, and the records of issued identification documents are prescribed by the minister.

The public enforcement officer may use the seal, stamp and the identification document only for official activities carried out within the limits of his authority.

The certified signature of the public enforcement officer is deposited with the ministry.

3. Termination of Activity of Public Enforcement Officer

Reasons for Termination of Activity

Article 484

The activity of the public enforcement officer ceases upon personal request, upon termination of one's work-life expectancy or upon dismissal.

The public enforcement officer, who reached his work-life expectancy, or who has been dismissed, is struck off from the Registry of Public Enforcement Officers and Deputy Public Enforcement Officers.

Termination of Activity upon Request of Public Enforcement Officer

Article 485

A public enforcement officer may file a request to the ministry to have his activity terminated by being struck off from the Registry of Public Enforcement Officers and Deputy Public Enforcement Officers.

In any case, the activity of the public enforcement officer ceases within 30 days from the date of submission of such request, even if he has not been struck off from the Registry of Public Enforcement Officers and Deputy Public Enforcement Officers.

Termination of Activity due to Reaching Work-life Expectancy of Public Enforcement Officer

Article 486

The activity of a public enforcement officer terminates by the operation of law, upon reaching his work-life expectancy.

The work-life expectancy is reached once he turns 67 years of age.

The minister issues a writ to determine the reaching of the work-life expectancy of the public enforcement officer.

The writ of the minister is final in the administrative proceedings.

Reasons for Dismissal of a Public Enforcement Officer

Article 487

A public enforcement officer is dismissed from office:

- 1) If he no longer fulfils the requirements for the activity of a public enforcement officer;
- 2) If he has hidden a legal obstacle hindering appointment for a public enforcement officer;
- 3) If he entering into an employment relationship;
- 4) If he accepts a public office, a managerial or supervisory position in a commercial company, starts a career in security business, as a lawyer or a notary public, or in other paid occupation, engages in activities which were indicated as incompatible by a regulation of the Chamber;
- 5) If he fails to pay the insurance premium for damages that he might cause by his activity to another person, or the insurance premium for the premises and assets accepted in deposit in case of their damage, destruction or loss;
- 6) If substantial discrepancies are found between the information contained in property reports and the actual property owned by the enforcement officer;

7) If the disciplinary measure of permanent ban on performance of activities of a public enforcement officer is imposed against him;

8) Upon being finally convicted for a crime to an unconditional term of imprisonment for at least six months, or for a crime against legal transactions or official duty, or for a punishable act which makes him unworthy of public enforcement officer's activity.

Deciding on Public Enforcement Officer's Dismissal

Article 488

The procedure of deciding on dismissal of a public enforcement officer is initiated by the minister, upon the motion of the Chamber or upon its own initiative.

A public enforcement officer is given the opportunity to declare before the minister on the fact whether reasons for dismissal exist, unless a disciplinary measure has been imposed against him for permanent ban on activity of a public enforcement officer.

The minister decides whether reasons for dismissal exist.

The writ on dismissal of a public enforcement officer is published in the "Official Herald of the Republic of Serbia".

The writ on dismissal is final in the administrative proceedings.

Consequences of Termination of Activity of a Public Enforcement Officer

Article 489

Upon termination of activity of a public enforcement officer, his deputy continues his activity, and in case a deputy is not available, the minister appoints another public enforcement officer, who temporarily assumes his office.

He is appointed by a writ on strike off of a public enforcement officer from the Registry of Public Enforcement Officers and Deputy Public Enforcement Officers, or pursuant to a writ that determines that the public enforcement officer has reached his work-life expectancy, or that the public enforcement officer is being dismissed, or by a special writ.

Temporary takeover of activities lasts until the newly appointed public enforcement officer assumes office.

Extraordinary Supervision of the Chamber

Article 490

The Chamber shall perform an extraordinary supervision of the operation of the public enforcement officer whose activity has ceased.

The public enforcement officer shall surrender to the Chamber all documents, books, records, seal and stamp, immediately upon reception of the writ based on which his is terminated.

The archives of the public enforcement officer are inventoried by a three-member commission appointed by the Chamber.

4. Incapacity of a Public Enforcement Officer to Perform Activities and Interim Deputy of a Public Enforcement Officer

Article 491

A public enforcement officer prevented to act, and with no deputy available, designates a public enforcement officer or a deputy of another public enforcement officer, to replace him on a temporary

basis (interim deputy public enforcement officer) and about this fact immediately informs the ministry, the Chamber and the court for the territory of which he has been appointed.

If he does not designate the interim deputy prior to the loss of ability to act, or the designated interim deputy fails to assume office, the president of the Chamber issues a writ to designate the interim deputy.

The public enforcement officer may always revoke the interim deputy designated by him or the Chamber's president, and designate another one, and the Chamber president may always revoke the interim deputy whom he designated, and designate another one.

The interim deputy is in charge of the office, on behalf of and for the account of the absent public enforcement officer.

The public enforcement officer shall pay the interim deputy an appropriate remuneration defined by the Schedule of Fees of Public Enforcement Officers.

Discharge from Duty

Article 492

A public enforcement officer is discharged from duty if taken into jail.

A public enforcement officer may be discharged from duty, if criminal proceedings have been initiated against him for a crime against legal transactions or official duty, or for a punishable act that makes him unworthy for the activity of the public enforcement officer.

The minister issues a writ to discharge the public enforcement officer.

The writ is final in the administrative proceedings.

Chapter Two POWERS AND DUTIES OF PUBLIC ENFORCEMENT OFFICERS

Most Important Powers of Enforcement Officers

Article 493

The public enforcement officer primarily:

- 1) Issues a writ of execution based on a credible document for the purpose of settling a monetary claim arising from utility services and related activities;
- 2) Adopts a conclusion to set, amend, or add the instrument and the subject of enforcement;
- 3) Issues writs and conclusions;
- 4) Undertakes activities which directly implement enforcement or security interest;
- 5) Serves on the court documents and those of a public enforcement officer as well as the submission of the parties and other participants in the proceedings, in case the public enforcement officer carries out the enforcement;
- 6) Collects the data on the enforcement debtor (Article 30).

Adherence to Law and Court Rulings and Keeping of Business Secret

Article 494

The public enforcement officer shall adhere to the law and court rulings and keep a record of all enforcement and security interest activities, without delay, in the records on enforcement and security interest proceedings and financial operations.

The public enforcement officer shall keep confidential all data which he found out while performing the activity and not to use them with the aim of gaining benefits either for himself or other. This obligation does not cease with the termination of activity of a public enforcement officer.

Reasons for a Recusal of Public Enforcement Officer

Article 495

The public enforcement officer is recused through a procedure whereby, either directly or indirectly, his rights and obligations are being decided on, or the rights and obligations of his spouse or extramarital partner or blood relative in a straight line and collateral line, up to the fourth-degree of consanguinity, or rights and obligations of persons to whom he relates as a guardian, adoptive parent, adoptee or foster parent, to whom he is a legal representative, and in the procedure in which it is decided on the rights and obligations of a legal person that he founded (expulsion).

The public enforcement officer is also recused if having been in a business relationship with the party due to which enforcement is carried out, or if being a representative or a responsible person within a legal person that is the party in the proceedings.

The public enforcement officer is also recused if other facts cast doubt on his impartiality.

Incompatibility

Article 496

A public office, a managerial or supervisory position in a commercial company, security activities, attorney and public notary activities, any other paid occupation, as well as other activities which have been set to be incompatible in line with the Chamber's regulation, are incompatible with the activity of the public enforcement officer.

Scientific, expert, art or educational activities, mediation in amicable resolution of disputes, the activities of a court interpreter, as well as Chamber activities and those performed in international associations of enforcement officers, are not be subject to incompatibility.

Obligation of Adherence to the Ethical Code of Public Enforcement Officers and the Standards of Professional Conduct of Public Enforcement Officers

Article 497

A public enforcement officer shall adhere to the Ethical Code of Public Enforcement Officers and the Standards of Professional Conduct of Public Enforcement Officers.

The Ethical Code of Public Enforcement Officers is adopted by the Chamber, while the Standards of Professional Conduct of Public Enforcement Officers are adopted by the minister.

Liability for Damages

Article 498

A public enforcement officer is personally liable with all his property for any damages caused through his fault in the course of enforcement or security interest proceedings.

The Republic of Serbia is not liable for any such damages.

Obligation of Professional Development of Public Enforcement Officers and Initial Training

Article 499

A public enforcement officer shall undergo regular professional training.

The Chamber keeps attendance records for regular professional training and other forms of professional development and informs the ministry thereof.

The curriculum for professional development of public enforcement officers is prescribed by the Chamber.

Prior to appointment for a public enforcement officer, a candidate must undergo the initial training, the program and duration of which is prescribed by the Chamber.

The Chamber keeps attendance records of initial and regular professional trainings and other forms of professional development and informs the ministry thereof.

Attendance records of regular professional training and other forms of professional development contain the first and family name and the seat of the public enforcement officer, as well as the form and duration of the training.

Attendance records of initial training contain the first and family name, date of birth, unique master citizen number, permanent or temporary residence and date of training.

Public Enforcement Officer's Accounts

Article 500

A public enforcement officer has at least one special purpose account in his name in a bank.

Funds obtained in the enforcement or security interest proceedings are be paid to the subject special purpose account of the public enforcement officer. The funds on the special purpose account may not be attached for the purpose of settling of the liabilities of the public enforcement officer.

The public enforcement officer shall transfer the funds paid to the special purpose account, without delay, to the account of the enforcement creditor with the aim of settling the enforcement creditor.

The public enforcement officer also keeps at least one separate account for the payment of remuneration fee and reimbursement of expenses.

Obligation of Reporting on Property

Article 501

On the day of the appointment and from then on, once a year, the public enforcement officer shall file a report to the Chamber on property as well as the regular annual financial report.

The Chamber verifies the accuracy of data from both reports, by collecting the necessary data from authorities maintaining appropriate records on property and income.

The property report contains the data specified by the law governing the Anticorruption Agency.
The manner of submission of data from the report is prescribed by the Chamber.

Annual Report on Operations of Public Enforcement Officer

Article 502

The public enforcement officer, at least once a year, files a report on his operations to the ministry and the Chamber.

The data from the annual report are published on the web page of the ministry and the Chamber.

Obligation of Recordkeeping on Enforcement and Security Interest Proceedings and Financial Operations

Article 503

The public enforcement officer keeps records on enforcement and security interest proceedings and financial operations.

Such records are public and contain the following:

- 1) Name of the court which adopted the writ of execution based on an enforceable or credible document or a writ on preliminary or interim measure and the reference number of the court case;
- 2) Reference number of the case file of the public enforcement officer;
- 3) First and family name or business name of the enforcement debtor and enforcement creditor;
- 4) Subjects and instruments of enforcement or security interest;
- 5) Paid-in security and the date of payment;
- 6) Writs and conclusions rendered by the public enforcement officer;
- 7) Amount collected from the enforcement debtor;
- 8) Time when the actions were undertaken and their result;
- 9) First and family name or business name of the persons who have been settled and the amount of settlement;
- 10) Final amount of remuneration fee and reimbursement of expenses of the public enforcement officer.

The number of proceedings in which the public enforcement officer acted during one year is recorded as well.

The manner of recordkeeping on enforcement and security interest proceedings and financial operations is in more detail prescribed by the Minister.

The records on enforcement and security interest proceedings and the financial operations are kept in electronic form, and the data thereof are entered into the central data base, as part of the judicial information system.

Paying the Membership Fee to the Chamber

Article 504

The public enforcement officer shall pay a membership fee to the Chamber.

The membership fee comprises of a fixed part and the part whose amount depends on the number of cases of the public enforcement officer.

The manner of defining the membership fee, the manner of its payment and its amount are in more

detail prescribed by the Chamber.

Chapter Three DEPUTY AND ASSISTANT PUBLIC ENFORCEMENT OFFICERS

Deputy Public Enforcement Officer

Article 505

Each public enforcement officer may have one or more deputies.

A person meeting the conditions to be appointed for a public enforcement officer may be appointed for a deputy enforcement officer.

A deputy public enforcement officer is authorized to carry out all activities and adopt all decisions and conclusions on behalf of the public enforcement officer.

He signs the writs and conclusions with his first and family name and the title "Deputy Enforcement Officer".

While carrying out actions whereby he directly implements enforcement or security interest, he uses the seal and stamp of the public enforcement officer and his own identification document, issued by the ministry.

The identification document of the deputy public enforcement officer contains the first and family name of the deputy public enforcement officer, first and family name of the public enforcement officer for whom he has been appointed deputy, names of the courts on whose territory the public enforcement officer has been appointed and the registry number of the identification document.

The form of the identification document of the deputy public enforcement officer, the issuing and destruction of the identification document and the records of issued identification documents are prescribed by the minister.

Accountability of the Public Enforcement Officer and the Deputy

Article 506

The public enforcement officer and the deputy public enforcement officer are jointly and severally accountable for the damages that the deputy public enforcement officer may cause by his acts.

The deputy public enforcement officer shall keep a business secret in the same manner as the public enforcement officer.

Appointment of a Deputy Public Enforcement Officer

Article 507

A deputy public enforcement officer is appointed by the minister upon a motion of a public enforcement officer and having previously obtained the opinion of the Chamber.

Upon appointment of the deputy public enforcement officer, special care is devoted to the national composition of the population, the appropriate presence of the members of national minorities and the knowledge of the legal terminology in the language of the national minority which is in official use on the territory of the unit of local government where the seat of the public enforcement officer is located.

The writ issued on the motion for appointment of the deputy public enforcement officer is final in the

administrative proceedings.

The deputy public enforcement officer commences work the following day upon taking the oath before the minister.

The text of the oath for the deputy public enforcement officer is the same as the text of the oath of the public enforcement officer.

Mutatis Mutandis Application of Provisions on Public Enforcement Officer

Article 508

The provisions pertaining to the termination of activity of the public enforcement officer, authorizations and responsibilities of the public enforcement officer, supervision of work and disciplinary responsibility, are applied *mutatis mutandis* to the deputy public enforcement officer.

The Minister dismisses the deputy public enforcement officer upon his own initiative, or upon proposal of the public enforcement officer or the Chamber.

The writ on dismissal is final in the administrative proceedings.

Assistant Public Enforcement Officer

Article 509

A public enforcement officer may employ an assistant, who would, on his behalf, undertake actions which directly implement enforcement or security interest.

A contractually capable citizen of the Republic of Serbia, who has at least a secondary vocational degree, who is not subject to criminal proceedings, nor has he been convicted of a crime and sentenced to an unconditional prison term of at least six months may be hired as the assistant public enforcement officer.

The assistant public enforcement officer uses an identification document issued by the Chamber, which contains the first and family name of the assistant public enforcement officer, the first and family name of the public enforcement officer whose assistant he is, the names of the courts for whose territory the public enforcement officer has been appointed, and the registry number of the identification document.

The form of the identification document of the assistant to the public enforcement officer, the issuing and the destruction of the identification document and the records of issued identification documents, are prescribed by the Chamber.

The public enforcement officer is liable for the damages that the assistant public enforcement officer might induce when undertaking the enforcement or security interest actions.

The assistant public enforcement officer shall keep a business secret in the same manner as the public enforcement officer.

Chapter Four

DIRECTORY OF PUBLIC ENFORCEMENT OFFICERS AND DEPUTY PUBLIC ENFORCEMENT OFFICERS AND DIRECTORY OF PUBLIC ENFORCEMENT OFFICER PARTNERSHIPS

Directory of Public Enforcement Officers and Deputy Public Enforcement Officers

Article 510

The ministry maintains the Directory of Public Enforcement Officers and Deputy Public Enforcement Officers.

The following data are entered into the Directory of Public Enforcement Officers and Deputy Public Enforcement Officers:

- 1) First and family name, date of birth, unique master citizen number, tax identification number and seat of the public enforcement officer, and first and family name, date of birth and unique master citizen number of the deputy public enforcement officer;
- 2) Dates of appointment and commencement of office of the public enforcement officer and the deputy public enforcement officer, and dates of their dismissal;
- 3) Court for the territory of which the public enforcement officer is appointed;
- 4) Phone number and e-mail address;
- 5) Disciplinary measures imposed against the public enforcement officer or the deputy public enforcement officer.

Directory of Partnerships

Article 511

The ministry maintains the Directory of Partnerships of Public Enforcement Officers as well, into which the following data are entered:

- 1) Business name and the tax identification number of the partnership;
- 2) Date and number of the writ on registration or strike off of partnership from the Register of Business Entities;
- 3) First and family name, date of birth, and unique master citizen number of the citizen who is the founder of the partnership.

Amendment of Data

Article 512

The public enforcement officer and the deputy public enforcement officer shall, within the term of eight days, report any amendment of data entered into the Directory of Public Enforcement Officers and Deputy Public Enforcement Officers or the Directory of Partnerships of Public Enforcement Officers.

The manner of maintaining the Directory of Public Enforcement Officers and Deputy Public Enforcement Officers and the Directory of Partnerships of Public Enforcement Officers, is prescribed, in more detail, by the minister.

Chapter Five

CHAMBER OF PUBLIC ENFORCEMENT OFFICERS

Notion

Article 513

The Chamber of public enforcement officers is a professional association of public enforcement officers, comprising of all public enforcement officers.

The Chamber operates as a non-profit association.

The Chamber is a legal person with powers set out by law and the Articles of Association of the Chamber.

The registered headquarters of the Chamber are in Belgrade.

Chamber's Scope of Work

Article 514

The Chamber:

- 1) Adopts 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.

The Chamber also performs other activities as set out by the law and the Chamber's Articles of Association.

Chamber's Operating Funds

Article 515

The Chamber's operating funds are:

- 1) Funds from membership and registration fees of the Chamber's members;
- 2) Funds realized by educational and publishing activities;
- 3) Gifts;
- 4) Other income in line with the law.

Chamber Bodies

Article 516

The Chamber bodies are: the assembly of the Chamber, the executive board of the Chamber, the supervisory board of the Chamber, the president of the Chamber, the deputy president of the Chamber, the disciplinary prosecutor of the Chamber, the deputy disciplinary prosecutor of the Chamber and other bodies set by the Articles of Association of the Chamber.

The members of the executive and supervisory board, the president of the Chamber, the deputy president of the Chamber, the disciplinary prosecutor of the Chamber and the deputy disciplinary prosecutor of the Chamber are entitled to remuneration.

The subject remuneration is set by the executive board of the Chamber.

Assembly of the Chamber

Article 517

The Assembly of the Chamber is made up of all public enforcement officers.

The Assembly:

- 1) Adopts the Articles of Association of the Chamber and the Code of Professional Ethics for Public Enforcement Officers;
- 2) Elects and dismisses the president and deputy president of the Chamber, members of the executive and supervisory board, the disciplinary prosecutor of the Chamber, the deputy disciplinary prosecutor of the Chamber, and members of the Chamber's other bodies;
- 3) Adopts the annual statement of accounts and the annual report on operations of the Chamber.

The Assembly of the Chamber also performs other duties prescribed by law and the Articles of Association of the Chamber.

Executive Board of the Chamber

Article 518

The executive board of the Chamber has nine members.

The president of the Chamber and the deputy president of the Chamber are members of the board due to their title.

The executive board:

- 1) Proposes the Articles of Association and adopts regulations and general acts of the Chamber;
- 2) Prepares sessions of the Assembly of the Chamber;
- 3) Takes care about the Chamber's operations;
- 4) Sets the membership and registration fees, the manner of their payment, and their amount;
- 5) Takes care about the collection of income of the Chamber.

The executive board of the Chamber also performs other activities stipulated by law and the Articles of Association of the Chamber.

The election and the mandate of the president of the executive board of the Chamber are prescribed by the Articles of Association of the Chamber.

Supervisory Board of the Chamber

Article 519

The supervisory board of the Chamber supervises the compliance of the activities and financial operations of the Chamber with law.

The supervisory board of the Chamber performs other activities too, stipulated by law and the Articles of Association of the Chamber.

The supervisory board of the Chamber is made up of three members.

President of the Chamber

Article 520

The president of the Chamber presents and represents the Chamber, takes care that the Chamber acts and operates in compliance with the law and the Articles of Association of the Chamber, executes decisions of the Chamber's bodies and performs other activities stipulated by law and the Articles of Association of the Chamber.

Articles of Association and Other Regulations and General Acts of the Chamber

Article 521

The Articles of Association of the Chamber regulates the organization and operation of the Chamber, the manner of election, dismissal, authorizations and the mandate of the Chamber bodies; prescribes the body which proposes the dismissal of a public enforcement officer or a deputy to the public enforcement officer and stipulates all other issues significant for the operation of the Chamber.

The Articles of Association and other regulations and the general acts of the Chamber enter into force upon received approval of the ministry and are published in the "Official Herald of the Republic of Serbia".

A reasoned writ is issued on denial of approval.

Supervision of Chamber's Operation

Article 522

The ministry supervises the operation of the Chamber, in line with the law governing the state administration.

The Chamber shall file to the ministry the annual report on operation of the Chamber which may also contain the proposal for the improvement of activities of public enforcement officers.

Chapter Six

SUPERVISION OF THE ACTIVITIES OF PUBLIC ENFORCEMENT OFFICERS

Ministry's Supervision of the Activities of Public Enforcement Officers

Article 523

The ministry supervises the operation of public enforcement officers.

The ministry conducts supervision upon its own initiative, upon the motion of the presiding judge of the court for whose territory the public enforcement officer has been appointed, or upon complaint of another public enforcement officer, party or participant in the proceedings.

The Ministry is authorized to:

- 1) Obtain from the parties and participants in the proceedings and the presiding judges of the courts for whose territory the public enforcement officer has been appointed, all data on the manner in which the public enforcement officer has issued writs and conclusions and undertaken enforcement and security interest activities;
- 2) Request documentation pertaining to the amount of costs of the enforcement and security interest;
- 3) Request reports and evidence of how the documents of the court and the public enforcement officer and the submissions of the parties and other participants in the proceedings have been served;
- 4) Inspect the choice of instruments and subjects of enforcement and their changes during the enforcement proceedings or security proceedings;
- 5) Request a report on whether and how many times has the same enforcement or security interest action been repeated;
- 6) Inspect the operation of the public enforcement officer's office with the aim of verifying the application of the Standards of Professional Conduct of Public Enforcement Officers;
- 7) Inspect the records on enforcement security interest proceedings and financial operations;
- 8) Obtain other data necessary to decide whether disciplinary proceedings would be initiated against the public enforcement officer.

The state official who performed the supervision shall forward the minutes on supervision and the evidence to the disciplinary prosecutor of the ministry and the disciplinary prosecutor of the Chamber.

The ministry's supervision of the activities of public enforcement officers is prescribed in more detail by the Minister.

Supervision of Public Enforcement Officers' Operation by Chamber

Article 524

The operation of the public enforcement officer is also supervised by the Chamber, at least once in two years (regular supervision), during which the application of the Standards of Professional Conduct of Public Enforcement Officers is verified, as well.

The Chamber may carry out an extraordinary supervision, upon a complaint of a party or participant in proceedings.

Apart from the authorizations of the Ministry (Article 523), the Chamber is authorized to:

- 1) Inspect the case files, data and other archive materials of a public enforcement officer, assets and money paid in as security, and receipts of amounts collected on behalf of remuneration and reimbursement of expenses of the public enforcement officer;
- 2) Inspect the ledger, records on security and enforcement proceedings and financial operations, inspect the case files and stored objects;
- 3) Request from the public enforcement officer all necessary data regarding his activities;
- 4) Obtain from competent bodies and organizations data on the operations of the public enforcement officer;
- 5) Undertake other actions, in line with the law and Chamber's regulation.

The Chamber may order the public enforcement officer to eliminate any noncompliance within a specific deadline, if the nature of the matter allows it.

The record on supervision and evidence are forwarded to the disciplinary prosecutor of the Chamber and the disciplinary prosecutor of the ministry.

The Chamber's supervision of the public enforcement officers' operations is regulated in more detail by the Chamber.

Chapter Seven

DISCIPLINARY ACCOUNTABILITY OF PUBLIC ENFORCEMENT OFFICERS

1. Disciplinary Accountability and Disciplinary Infractions

Accountability

Article 525

A public enforcement officer is held disciplinary accountable in case of infringement of law and other regulations, failure to fulfill his responsibilities under the Articles of Association 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 Infractions

Article 526

A disciplinary infraction may either be minor or severe.

A minor disciplinary infraction is set by the Articles of Association of the Chamber.

Severe disciplinary infraction is set by either this Law or other law.

Severe Disciplinary Infractions

Article 527

Severe disciplinary infraction is:

- 1) Carrying out enforcement even if the public enforcement officer had no jurisdiction to do so;
- 2) Tardiness in adoption of writs and conclusions in the enforcement or security interest

proceedings, or untimely undertaking of actions that directly implement the enforcement or security interest;

3) Informing the court, or the enforcement creditor, that the public enforcement officer has been prevented to accept the implementation or continuation of enforcement, although such impediment does not exist (Article 69 paragraph 1, and Article 140);

4) Infringement of rules on serving of writs or conclusions of the court or the public enforcement officer, due to which a party or participant in proceedings has lost a 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 the subjects of enforcement which have been exempt from 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 interest, in order to increase the proceedings costs;

8) Undertaking actions in spite of reasons for expulsion (Article 495, paras. 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, or fails to submit evidence that the Chamber has not replied to the request of the enforcement creditor within the term of five days (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) 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;

15) Infringement of obligation to keep a business secret;

16) Disorderly keeping of ledgers and records;

17) Failure to carry out the enforcement or security interest proceedings in the language that is in official use in the court;

18) Handling assets and funds in enforcement or security proceedings contrary to the law or 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.

2. Disciplinary Measures

Minor and Severe Disciplinary Measures

Article 528

For minor disciplinary infractions, the following are imposed:

- 1) Reprimand;
- 2) Fine in the amount of one average monthly salary of the basic court judge, paid in the month preceding the one when the writ on a fine has been rendered.

For severe disciplinary infractions, the following are imposed:

- 1) Public reprimand;
- 2) Fine in the amount ranging from one to 12 average monthly salaries of the basic court judge, paid in the month preceding the one when the writ on a fine has been rendered;
- 3) Temporary ban on practicing the activity of a public enforcement officer;
- 4) Permanent ban on practicing the activity of a public enforcement officer.

The temporary ban on practicing the activity of a public enforcement officer may last from three months to one year.

The disciplinary commission may discharge the public enforcement officer from office during the disciplinary proceedings.

The fine is paid to a designated account of public revenues.

Assessment of a Disciplinary Measure

Article 529

When imposing disciplinary measures, all circumstances are taken into account that may have an effect on the type and amount of the measure imposed, but above all, the severity and the consequences of the disciplinary infraction, previous conduct of the public enforcement officer, caused damage, level of responsibility and previously imposed disciplinary measures.

3. Disciplinary Prosecutor of the Chamber

Article 530

The Disciplinary Prosecutor of the Chamber is elected by the Chamber Assembly among public enforcement officers, pursuant to the Articles of Association of the Chamber.

The disciplinary prosecutor of the Chamber has a deputy who is appointed by the Assembly of the Chamber, pursuant to the Articles of Association of the Chamber.

The mandate and the powers of the disciplinary prosecutor of the Chamber and the deputy are regulated by the Articles of Association of the Chamber.

4. Disciplinary Commission

Role

Article 531

The disciplinary commission governs the disciplinary proceedings and rules on the motion for determining disciplinary accountability.

Composition of Disciplinary Commission

Article 532

The disciplinary commission is made up of five members.

The Minister appoints three members among the judges with experience in enforcement and security proceedings.

The remaining two members are appointed by the executive board of the Chamber among the public enforcement officers, upon the motion of the president of the Chamber.

The members of the disciplinary commission, among themselves, elect a president, for a two-year period.

The members of the disciplinary commission receive remuneration for their work in the commission, the amount of which is set by the minister.

Mandate of the Members of Disciplinary Commission

Article 533

Members of the disciplinary commission are appointed to a period of four years.

They may be subject to re-appointment.

Termination of Duty prior to Expiry of Time for Which the Member of the Disciplinary Commission Has Been Appointed. Resignation

Article 534

The duty of the member of the disciplinary commission ceases prior to the expiry of time for which he has been appointed to the disciplinary commission if his capacity due to which he was appointed, ceases, in case of resignation, or discharge.

The resignation is submitted to the minister or the executive board of the Chamber, depending on who has appointed the member of the disciplinary committee who is filing for resignation, and enters in force when the minister, i.e. the executive board of the Chamber, receives it.

Discharge of a Member of Disciplinary Commission

Article 535

A member of the disciplinary commission is discharged if he unconscientiously performs his duties.

The proceedings deciding on whether reasons for discharge of a member of disciplinary commission exist, is initiated and carried out by the minister or the executive board of the Chamber, depending on who has appointed the member against whom such proceedings are aimed at.

The minister or the executive board of the Chamber initiates proceedings on their own initiative, i.e. upon the motion of the President of the Chamber.

Upon enabling the member of the disciplinary committee to declare on the existence of reasons for discharge and determining the necessary facts, the minister or the executive board of the Chamber decide on whether the reasons for discharge exist.

The writ on discharge is final in the administrative proceedings.

The same proceedings are applied *mutatis mutandis* in case the capacity of the member of disciplinary committee has ceased, based on which he has been appointed to the commission.

5. Disciplinary Proceedings

Request for Determining Disciplinary Accountability

Article 536

Disciplinary proceedings are instigated by a request for determining disciplinary accountability.

The request for determining disciplinary accountability may be filed by the minister, disciplinary prosecutor of the Chamber, disciplinary prosecutor of the ministry and the president of the Chamber.

The request for determining disciplinary accountability may be filed even if prior supervision of the operation of the public enforcement officer has not been carried out.

The request for determining disciplinary accountability contains the first and family name of the public enforcement officer, the names of courts for the territory of which he has been appointed and the seat of his office, the factual description and the legal appraisal of the disciplinary infraction, the proposal of evidence which need to be called upon in the oral hearing, and the proposal of the disciplinary measure.

Serving Request on the Public Enforcement Officer and Scheduling Oral Hearing

Article 537

The disciplinary commission immediately serves the request on the public enforcement officer to respond in writing thereto within the term of 15 days.

Upon receipt of the written response of the public enforcement officer or upon expiry of the deadline for response, the disciplinary committee schedules the oral hearing.

The oral hearing is not scheduled if the factual situation is not disputed.

Oral Hearing

Article 538

The oral hearing comprises of one or several sittings.

The disciplinary commission gives its best to secure that the oral hearing is not dragged or delayed, and that it is finalized already at the first hearing.

It shall send summons to the sitting to the public enforcement officer, the applicant for determining disciplinary accountability and other persons whose presence is necessary at the sitting at least eight days prior to the sitting.

If the public enforcement officer fails to appear at the oral hearing, although he has been properly summoned, the oral hearing may either be held or postponed.

Status of the Public Enforcement Officer at the Oral Hearing

Article 539

The public enforcement officer is entitled, at the oral hearing, to make a statement on the facts which have been laid down in the request for determining disciplinary accountability and on the presented evidence, take part in the assessment of evidence, pose questions to the witnesses and expert witnesses, present facts significant for his defense, propose evidence, present legal claims and contest those that contravene his.

The oral hearing is public only if the public enforcement officer request so.

Adopting a Decision

Article 540

The disciplinary commission adopts a decision after the oral hearing.

The decision is adopted by a majority vote of its members.

The disciplinary proceedings are in more detail prescribed by the minister.

Possibility of Administrative Dispute

Article 541

Administrative dispute proceedings may be led against the decision of the disciplinary commission.

6. Statute of Limitations

Article 542

The statute of limitations for initiating the disciplinary proceedings is six months from becoming aware of the disciplinary infraction, and at most one year from when the infraction was committed.

The ability to carry out disciplinary proceedings is subject to statute of limitations within the term of one year from the commencement of the disciplinary proceedings.

Once imposed, a disciplinary measure may not be enforced after one year elapses from its finality.

7. Enforcement of Fine

Article 543

The writ on imposition of a fine compels the public enforcement officer to pay the fine to the designated account of public revenues, within the set deadline and orders enforcement if the fine has not been paid within the given deadline.

The ruling on imposition of fine has the effect of a writ of execution, which is *ex officio* enforced by the body of the Chamber, designated by the Articles of Association of the Chamber.

The collected fine is the revenue of the budget of the Republic of Serbia.

8. Deleting the Imposed Measure from the Records

Article 544

The ministry keeps records on imposed disciplinary measures.

The records contain the first and family name, date of birth, unique master citizen number, tax identification number and the seat of the public enforcement officer, the reference number and the date of adoption of the writ on imposed disciplinary measure, the disciplinary infraction due to which the disciplinary measure has been imposed and the imposed disciplinary measure.

The public enforcement officer may not request the deletion of the disciplinary measure imposed for a minor disciplinary infraction, prior to expiry of six months from its entry into the Directory of Public Enforcement Officers and Deputy Enforcement Officers, nor the deletion of the disciplinary measure imposed for the severe disciplinary infraction, prior to expiry of one year from its entry into the Directory of Public Enforcement Officers and Deputy Enforcement Officers.

Upon imposing a temporary ban on practicing the activity of a public enforcement officer, the public enforcement officer is struck off from the Directory of Public Enforcement Officers and Deputy

Enforcement Officers, for the period of time for which the ban has been imposed. He is again inscribed on the following day after the expiry of the ban, and if he is not inscribed again, it is deemed that he has been inscribed again on the day that follows the expiry of the ban.

Part eight TRANSITIONAL AND FINAL PROVISIONS

Initiated Proceedings

Article 545

Enforcement proceedings and security interest proceedings which have been initiated prior to the entry into force of this Law continue under the provisions of the Law on Enforcement and Security Interest (Official Herald of RS, Nos. 31/11, 99/11 - other law, 109/13 - CC, 55/14 and 139/14).

Repeal of the First Instance Decision after Entry into Force of This Law

Article 546

If, after entry into force of this Law, the writ of execution or writ on security interest has been repealed, the proceedings continue under the provisions of this Law. If enforcement or security interest are carried out by the court, and, under this Law, the exclusive jurisdiction for conducting enforcement or security interest lies with the public enforcement officer, the enforcement creditor shall, within the term of 15 days from the receipt of the writ on repeal of the writ of execution or security, appoint a public enforcement officer and inform the court thereof; otherwise the enforcement or security proceedings is discontinued.

After receiving notification from the enforcement creditor, the court issues a conclusion on discontinuation of enforcement before the court, and submits the case files to the public enforcement officer, who immediately adopts a conclusion on the continuation of enforcement.

The public enforcement officer remains competent to carry out the enforcement, for which, in line with this Law, the court has exclusive jurisdiction.

Statement of Enforcement Creditors

Article 547

The enforcement creditors, for whose benefit, prior to commencement of operation of enforcement officers in the Republic of Serbia, a writ of execution based on an enforceable or credible document or a writ on security interest have been adopted, and who, on the day of May 1st 2016 still carry out the enforcement or security proceedings, shall, within a time period from May 1st 2016 until July 1st 2016, declare on whether they are willing to have the court or the public enforcement officer carry out the enforcement.

If they fail to declare within the time limit, the enforcement proceedings are discontinued.

Should the enforcement creditor declare that the public enforcement officer should continue the proceedings, he shall pay the public enforcement officer only half of the advance payment set forth by the Schedule of Fees of the Public Enforcement Officers.

Should the enforcement creditor declare that the proceedings under the writ of execution on the basis of a credible document for the purpose of settling the monetary claim arising from utility and related services, are to be continued by the public enforcement officer, the court shall, within the time limit of eight days, submit the reference number of the court case to the Chamber, which, through *mutatis mutandis* application of Article 252 of the Law on Enforcement and Security Interest

("Official Herald of RS", Nos. 31/11, 99/11 - other law, 109/13 - CC and 55/14), designates a public enforcement officer who continues the implementation of enforcement.

Continuing the Work of a Public Enforcement Officer and Deputy Enforcement Officer. Taking the Bar Exam

Article 548

The enforcement officers and deputy enforcement officers nominated under the provisions of the Law on Enforcement and Security Interest ("Official Herald of RS", Nos. 31/11, 99/11 - other law, 109/13 - CC, 55/14 and 139/14) continue with operation.

The enforcement officers and deputy enforcement officers who have been appointed or shall be appointed by July 1 st 2016 shall pass the bar exam by January 1st 2018.

Should they fail to pass the bar exam by January 1st 2018, they shall be discharged.

Deadline for Adoption of Regulations

Article 549

The Chamber shall harmonize the Articles of Association of the Chamber with this Law within the term of 30 days from the day of publication of this Law in the "Official Herald of the Republic of Serbia".

The minister and the Chamber shall adopt the regulations set forth by this Law within the term of 60 days from the day of publication of this Law in the "Official Herald of the Republic of Serbia".

Repealing the Previous Law

Article 550

The Law on Enforcement and Security Interest ("Official Herald of RS", Nos. 31/11, 99/11 - other law, 109/13 - CC, 55/14 and 139/14) cease to be in force on July 1st 2016.

Entry into Force of This Law

Article 551

This Law enters into force on July 1 st 2016, except for the provisions of Article 393, paragraph 5, Article 470, paragraph 2, Article 472, paragraph 3, Article 473, paragraph 2, Article 474, paragraph 4, Article 481, Article 482, paragraph 3, Article 483, paragraph 2, Article 496, paragraph 1, Article 497, paragraph 2, Article 499, paras. 3 and 4, Article 501, paragraph 4, Article 503, paragraph 4, Article 504, Article 505, paragraph 7, Article 509, paragraph 4, Article 512, paragraph 2, Article 516, paragraph 3, Article 523, paragraph 5, Article 524, paragraph 6, Article 530, Article 532, paragraph 5, Article 540, paragraph 3, Article 547, Article 548 and Article 549 of this Law which enter into force on the eighth day following the publication of this Law in the "Official Herald of the Republic of Serbia".

PUBLISHER'S NOTE:

* Pursuant to Article 8, paragraph 1 of the National Assembly Act ("Official Herald of RS", No. 9/10) and Article 194, paragraph 2 of the Rules of Procedure of the National Assembly ("Official Herald of RS", No. 20/12 - consolidated text), the National Assembly of the Republic of Serbia, at the Seventh session of the Second Regular Convocation in 2016, held on December 27, 2016, brought its

AUTHENTIC INTERPRETATION OF THE PROVISIONS OF ARTICLE 48 OF THE LAW ON ENFORCEMENT AND SECURITY INTEREST ("OFF. HERALD OF RS", No. 106/15) ("Off. Herald of RS", No. 106/2016)

The provisions of Article 48 of the Law on Enforcement and Security Interest read as follows:

"Enforcement proceedings is also conducted on the motion and in favor of a person who has not been designated as the enforcement creditor in the enforceable or credible document, if such person submits an official or a legally certified document as evidence that the claim referred to in the enforceable or credible document has been transferred to him, and if such proof is not possible, if the transfer of claim is proven by an enforceable or a final court ruling in a civil, misdemeanor or administrative proceedings.

When the claim is transferred from the enforcement creditor to another person after rendering of the writ of execution based on enforceable or credible document, at the motion of the transferee who evidences the transfer by an official or a legally certified document, a conclusion shall be adopted to establish that the transferee has taken the place of the enforcement creditor.

Provisions of paragraphs 1 and 2 of this Article shall apply mutatis mutandis also in the enforcement proceedings against a person who has not been designated as the enforcement debtor in the enforceable or credible document, as well as when after rendering the writ of execution based on enforceable or credible document the obligation of the enforcement debtor gets transferred to another party, the transferee of the obligation.

The transferee enters into the enforcement proceedings in the state in which such proceedings are at that time."

These provisions should be understood in such a way that the court that decides on the motion for enforcement shall determine the identity of the debtor specified in the enforceable document and the enforcement debtor specified in the motion for enforcement. If such identity does not exist, it shall request from the enforcement creditor to submit a legal instrument or a legally certified document proving that the obligation has been transferred from the debtor specified in the enforcement document to the third party specified in the motion for enforcement. If he does not possess such a document, he shall prove the transfer of the obligation by a final decision rendered in civil, misdemeanor or administrative proceedings.

These rules apply also when the transfer of obligation is prescribed by law or other regulation.

This authentic interpretation shall be published in the "Official Herald of the Republic of Serbia".

* Pursuant to Article 8, paragraph 1 of the National Assembly Act ("Official Herald of RS", No. 9/10) and Article 194, paragraph 2 of the Rules of Procedure of the National Assembly ("Official Herald of RS", No. 20/12 - consolidated text), the National Assembly of the Republic of Serbia, at the Fifth session of the Second Regular Convocation in 2017, held on 14 December 2017, brought this

AUTHENTIC INTERPRETATION OF THE PROVISIONS OF ARTICLE 48 OF THE LAW ON ENFORCEMENT AND SECURITY INTEREST ("OFFICIAL HERALD OF RS", Nos. 106/15 and 106/16 - AUTHENTIC INTERPRETATION) ("Official Herald of RS", No. 113/2017)

The provisions of Article 48 of the Law on Enforcement and Security Interest ("Official Herald of RS", No. 106/15 and 106/16 - Authentic Interpretation) read as follows:

"Enforcement proceedings is also conducted on the motion and in favor of a person who has not been designated as the enforcement creditor in the enforceable or credible document, if such person submits an official or a legally certified document as evidence that the claim referred to in the enforceable or credible document has been transferred to him, and if such proof is not possible, if the transfer of claim is proven by an enforceable or a final court ruling in a civil, misdemeanor or administrative proceedings.

When the claim is transferred from the enforcement creditor to another person after rendering of the writ of execution based on enforceable or credible document, at the motion of the transferee who evidences the transfer by an official or a legally certified document, a conclusion shall be adopted to establish that the transferee has taken the place of the enforcement creditor.

Provisions of paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* also in the enforcement proceedings against a person who has not been designated as the enforcement debtor in the enforceable or credible document, as well as when after rendering the writ of execution based on enforceable or credible document the obligation of the enforcement debtor gets transferred to another party, the transferee of the obligation.

The transferee enters into the enforcement proceedings in the state in which such proceedings are at that time."

These provisions of the law should be understood in such a manner that the legal term "transfer" of the claim or obligation includes the assignment of a claim or obligation. The expression "transfer" of a claim or obligation has a general meaning and contains all forms of succession of claims or obligations, whether succession occurs during the existence of a legal entity or after its termination. Or, as stated in the terminology of the provision of Article 23 of the previously applicable Law on Enforcement and Security Interest ("Official Herald of RS", Nos. 31/11, 99/11 - other law, 109/13 - CC, 55/14 and 139/14) "transfer" also includes the "transfer and other manner of assignment". Therefore, the "transfer" of a claim or obligation is proven by a public or legally certified legal instrument, and if this is not possible, by a final decision rendered in civil, misdemeanor or administrative proceedings.

This authentic interpretation is to be published in the "Official Herald of the Republic of Serbia".



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