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Ministry of Justice

# LAW ON ENFORCEMENT PROCEDURE

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## LAW ON ENFORCEMENT PROCEDURE

### PART ONE

#### BASIC PROVISIONS

## Content of the Law

### Article 1

(1) This Law shall govern the procedure under which courts conduct the enforcement of claims which are embodied in executive titles or authentic documents (hereinafter "enforcement procedure") and conduct the securing of claims (hereinafter "security procedure"), unless provided otherwise by a specific law.

(2) This Law shall also govern the procedure for enforcement of individuals' claims which are based on foreign executive titles.

## Initiating Procedure

### Article 2

(1) Enforcement procedure and security procedure shall be initiated on motion of an enforcement creditor.

(2) The procedures referred to in paragraph (1) of this Article may also be initiated ex officio when so provided by law.

## Jurisdiction

### Article 3

(1) Enforcement procedure and security procedure shall be ordered and conducted by the court.

(2) Enforcement procedure and security procedure shall be conducted by the court in the territory where the enforcement debtor has residence or seat, unless provided otherwise by this Law.

## Composition of the Court

### Article 4

(1) A single judge shall conduct and make decisions in a first instance enforcement procedure, and a panel of three judges shall conduct and make decisions in a second instance procedure.

(2) A judge may delegate specific activities to a court assistant, unless provided otherwise by law.

## Urgency in Conducting a Procedure

### Article 5

(1) The court shall act urgently in proceedings for enforcement and security.

(2) The court shall decide on a motion to enforce within three days following its filing. If the motion to enforce is based on a foreign executive title that has not yet been recognized by a domestic court, the court shall decide on the motion within 30 days following its filing.

(3) Deadlines set by a court for carrying out specific actions shall not exceed three days, unless provided otherwise by this Law.

(4) If a party to a procedure fails to carry out without justified reasons certain action within the time limit set by law or a court, it shall lose the right to undertake such action.

(5) Acting contrary to paragraphs (1) or (2) of this Article shall be considered to be unconscionable and unprofessional behavior of the judge in the sense of the Law on Judges.

## Order of Conducting and Order of Satisfaction

### Article 6

(1) The court shall administer cases in the order of their submission, unless the nature of the claim or other special circumstances warrant otherwise.

(2) If more than one enforcement creditor is enforcing his monetary claims against the same enforcement debtor and against the same object of enforcement, satisfaction shall be effected in the order of acquiring the right to satisfaction from such object, unless provided otherwise by law.

(3) If in a case referred to in paragraph (2) of this Article there is a concurrent ongoing enforcement procedure before another state authority pursuant to provisions regulating priority of enforcement before that particular authority, the court shall suspend its enforcement procedure.

## The Principle of Formal Legality

### Article 7

When all requirements for issuing an enforcement order and carrying out the enforcement have been met, the court shall issue a decision on enforcement and undertake enforcement measures.

## Scope of Enforcement and of Security Procedure

### Article 8

(1) The court shall grant enforcement or security by such means and on such objects as have been designated in the motion to enforce or the motion for security.

(2) Where more than one enforcement means or enforcement object has been proposed, the court may, ex officio or on motion of a party, limit the enforcement or security to certain means or objects only, if sufficient for satisfaction or securing of the claim.

(3) Enforcement shall be conducted in the manner stated in the court's decision on enforcement.

(4) The court may, on motion of the enforcement creditor or debtor in accordance with this Law, designate another enforcement or security object instead of the one proposed.

(5) Enforcement for the purpose of satisfying a monetary claim or the purpose of securing such a claim shall be granted and carried out to the extent required for satisfaction or securing of such claim.

(6) The parties may submit a motion referred to in paragraph (2) of this Article not later than three days following the receipt of the decision on enforcement, while a motion referred to in paragraph (4) of this Article may be submitted until commencement of enforcement.

## Court Rulings

### Article 9

(1) A court ruling in an enforcement procedure may be issued in the form of a decision or a conclusion.

(2) A conclusion instructs the court enforcement officer, other court official or other person to carry out specific actions and decides issues regarding management of the procedure.

## Service

### Article 10

Provisions of the Law on Civil Procedure shall apply accordingly to service of documents in an enforcement procedure, unless provided otherwise in this Law.

## Recusal

### Article 11

(1) Provisions of the Law on Civil Procedure shall apply accordingly to a request for recusal.

(2) A request for recusal may be filed before the deadline for filing an appeal or objection to

a decision on enforcement.

## Legal Challenges

### Article 12

- (1) A legal challenge to an enforcement or security procedure may be in the form of an appeal or an objection.
- (2) An appeal of a first instance decision may be filed unless this Law states that an appeal is not allowed.
- (3) A decision on enforcement issued on the basis of an authentic document and a decision on enforcement made in a summary procedure may be objected to.
- (4) Any appeal or objection must be filed within three days after the date of delivery of the decision which is appealed from or objected to.
- (5) An appeal shall not postpone enforcement, unless provided otherwise in this Law.
- (6) Against a final decision in an enforcement or security procedure, a review and renewal of the procedure are not allowed.
  
- (7) There shall be no appeal of or objection to a conclusion.

## Appeal

### Article 13

- (1) An enforcement debtor may challenge a decision on enforcement by appeal, except in the case of a decision on enforcement issued on basis of an authentic document or the case of a decision on enforcement in a summary procedure, which may be challenged by objection.
- (2) An enforcement creditor may challenge a decision on enforcement insofar as it relates to costs of enforcement.
- (3) An enforcement creditor may challenge a decision rejecting a motion for enforcement by appeal.
- (4) A decision issued during the course of enforcement may be appealed, unless appeal is not allowed under this Law.

## Competence of Court on Appeal

### Article 14

An appeal shall be decided by a second instance court, except in cases specified in Article 19, paragraphs (1) and (2).

## Grounds for Appeal

### Article 15

An appeal against a decision on enforcement may be filed based on reasons that would prevent enforcement, particularly:

- 1) if the court which made the decision on enforcement did not have jurisdiction;
- 2) if the document on the basis of which the decision on enforcement was made does not have the requirements for executive title;
- 3) if the decision on the basis of which the decision on enforcement was made is not enforceable;
- 4) if the decision on the basis of which the decision on enforcement was made was issued was remanded, expunged or reversed;
- 5) if the settlement whereby the decision on enforcement was made has been set aside;
- 6) if the deadline for satisfaction of the claim has not expired or if a conditions set out in the

settlement has not been met;

7) if enforcement has been ordered on objects, monetary claims or other rights which are exempted from enforcement or on which enforcement is limited;

8) if the claim is terminated based on a fact that has come into existence after the decision became enforceable, or before that time but at a time when the enforcement debtor could not act in the proceeding from which the executive title derives, or if the claim is terminated based on a fact occurring after the settlement;

9) if the enforcement creditor postponed fulfillment of the obligation for a period that has not yet expired;

10) if the deadline for filing of motion for enforcement has expired; or

11) if the claim was not transferred to the enforcement creditor or the obligation was not transferred to the enforcement debtor.

### Loss or the Right to Submit Additional Evidence

#### Article 16

An enforcement debtor is obligated to state all the reasons for his appeal and the evidence on which the appeal is based, and to file these with the appeal. If he does not do so he shall lose the right to submit additional evidence in the appeal procedure.

#### Appeal after Expiration of Deadline

#### Article 17

Exceptionally, on grounds provided under Article 15, paragraph (1) 8) of this Law, an enforcement debtor may file an appeal against a decision on enforcement after expiration of the deadline for appeal, until such time as the enforcement is executed.

### Response to an Appeal

#### Article 18

(1) An appeal from a decision on enforcement shall be delivered to the enforcement creditor.

(2) The enforcement creditor may file a response to the appeal within three days after delivery of the appeal.

(3) On receiving the response to the appeal or following expiration of the deadline for reply, the first instance court shall, when it considers appropriate, schedule a hearing on the appeal.

### Termination of Enforcement Pursuant to Appeal by Enforcement Debtor of the Decision on Enforcement

#### Article 19

(1) A first instance court may, if it concludes that an appeal of an enforcement debtor filed within the deadline is merited, accept the reasons for the appeal, remand the decision on enforcement, terminate enforcement in whole or in part, and revoke actions already taken.

(2) In accordance with Article 17 of this Law, a first instance court may act in the same manner with respect to an appeal filed after the deadline has expired.

(3) Decisions referred to in paragraphs (1) and (2) of this Article may be appealed to the second instance court.

(4) If the first instance court decides not to dispose of the appeal itself, it shall refer disposition to the second instance court.

### Reasons for Rejection of Appeal and Referral to the Competent Court

## Article 20

(1) The first instance court shall reject an appeal which is untimely, incomplete or inadmissible.

(2) If the appeal is filed on grounds of lack of jurisdiction, the first instance court shall, if it finds that those grounds are correct, revoke its decision, revoke actions already taken, and refer the motion for enforcement to the competent court.

## Procedure on Objection to Decision on Enforcement Based on Authentic Document

### Article 21

(1) If a decision on enforcement based on an authentic document is challenged in whole or in a part in which enforcement is granted, the court in which the challenge is made shall revoke the decision on enforcement in the part in which enforcement is granted and shall revoke actions already taken, and further procedures shall be carried out in accordance with the provisions on objection against payment order. If the court does not have territorial jurisdiction it shall refer the case to the court which has territorial jurisdiction.

(2) If the decision on enforcement is challenged only in a part in which the manner of enforcement is stated, further procedures shall be carried out as a procedure on appeal from the decision on enforcement based on executive title.

(3) If an objection referred to in paragraph (2) of this Article is sustained, the part of the decision on enforcement that grants enforcement shall have the status of executive title on the basis of which enforcement may be requested against other objects.

(4) An objection against a decision on enforcement must state reasons for the objection.

## Reinstatement

### Article 22

Reinstatement of an enforcement procedure shall be allowed only in the case of failure to file an objection against a decision on enforcement or failure to file an appeal in due time.

## Filing of Objection by a Third Party

### Article 23

(1) A person asserting rights in an object of enforcement that prevent the enforcement may, at any time prior to conclusion of an enforcement procedure, file an objection with the first instance court asking the court to declare that enforcement against such object is inadmissible.

(2) The court shall serve the objection on the creditor and invite him to respond thereto within three days of service.

(3) The court shall dismiss the objection if the third party fails to provide probable grounds to support the rights which are claimed to prevent enforcement.

(4) The court may during the procedure instruct a third party whose rights the court believes have probable grounds, and which rights are disputed by the enforcement creditor or as to which the enforcement creditor failed to respond, to initiate, within 15 days after delivery of the decision, litigation to declare enforcement against such object inadmissible.

(5) An enforcement debtor disputing the third party's claimed rights may be included in the litigation referred to in paragraph (4) of this Article.

(6) Decisions referred to in paragraph (4) of this Article may not be appealed.

(7) Filing of an objection referred to in paragraph (1) of this Article shall not suspend further enforcement.

## Initiating Litigation without Court Instruction

### Article 24

(1) A person (the third party) asserting rights in the object of enforcement that prevent enforcement may, at any time prior to conclusion of the enforcement proceeding, without instruction by the court referred to in Article 23, paragraph (4) of this Law, initiate litigation against the enforcement creditor for preventing enforcement against such object.

(2) The enforcement debtor who disputed the third party's asserted rights may be included in the litigation.

(3) Initiation of litigation referred to in paragraph (1) of this Article shall not suspend further enforcement.

(1) If the enforcement creditor's motion to enforce is based on a foreign executive title, he must submit it in the original or a certified copy, translated into the language which is in official use in the

court, together with proof of the finality and enforceability under the law of the country of the executive title.

(2) A foreign executive title previously recognized by the domestic court in accordance with law shall be enforced in the same manner and procedure which is applicable to enforcement of domestic executive titles.

(3) An enforcement creditor may initiate an enforcement procedure before a competent court in the Republic of Serbia on the basis of a foreign executive title that has not been previously recognized by the domestic court. When the motion to enforce has been filed on the basis of a foreign executive title that has not been recognized, the court shall decide on recognition of such document as a preliminary matter.

(4) During the course of deciding on a foreign executive title that has not been previously recognized by a domestic court, the court conducting enforcement shall consider legal obstacles to recognition that are of concern ex officio.

(5) Legal remedies against a decision on enforcement issued in a procedure for enforcement of foreign executive title not previously recognized by a domestic court, may invoke other grounds stipulated by law to repudiate the foreign executive title.

## Enforcement of Foreign Executive Title

### Article 25

## Enforcement Against Property of a Foreign State

### Article 26

Property of foreign states and international organizations that is located in the territory of the Republic of Serbia shall be exempt from execution or securing without prior written authorization of the competent body, unless the foreign state or international organization has explicitly consented to enforcement or securing.

## Application of Provisions of the Law on Civil Procedure

### Article 27

Provisions of the Law on Civil Procedure shall be apply accordingly to enforcement and security procedures, unless this or another law provides otherwise.

## Definitions

### Article 28

The following terms used in this Law shall have the following meanings:

1) "claim" means a right of the enforcement creditor to payment of monies or some other consideration, performance or abstention;

2) "enforcement creditor" means a person whose claim is sought to be satisfied or secured in an enforcement or security procedure;

3) "enforcement debtor" means a person against whom enforcement or security procedures are



taken;

4) "party" means an enforcement creditor or an enforcement debtor;

5) "participant" means a person who, while not being a party to a procedure, has specific rights

or legal interests of his own in the procedure;

6) "decision on enforcement" means a decision that partly or fully grants a motion to enforce;

7) "court enforcement official" means a court employee who directly undertakes specific enforcement or securing actions;

8) "farmer" means a person whose predominant income derives from agricultural production;

9) "public book" means a cadastre of real property or other public registry, or a register designated by law for recording and recordation of rights to real property, shares and other objects;

10) "prerecordation" means an entry in the public registry that conditionally transfers, acquires or extinguishes rights in real property or other objects of enforcement.

11) "security" means a document or an electronic record that contains or represents rights in the object of enforcement or security;

12) "share" of a joint stock company means a security registered in the Registry of Securities that is an object of enforcement or security.

13) "statement of assets" means a statement given by an enforcement debtor, under penalty of criminal liability before a court or other relevant body, which contains a list of all the assets of the enforcement debtor as well as all his claims, and states that such information is complete and accurate.

## PART TWO

### GENERAL PROVISIONS ON ENFORCEMENT PROCEDURE

#### Chapter One

#### BASIC PROVISIONS

##### Grounds for Granting Enforcement

###### Article 29

The court shall order enforcement only on the basis of executive title or authentic document, unless this Law provides otherwise.

##### Executive Title

###### Article 30

Executive titles are:

1) an enforceable court decision or enforceable court settlement;

2) an enforceable decision issued in an administrative and misdemeanor procedure and settlement

in an administrative procedure, stating entitlement to payment of a monetary obligation, unless a specific law provides otherwise; and

3) other documents designated as executive title by law.

## Decision and Settlement

### Article 31

(1) For purposes of this Law, a court decision means a judgment, order or other decision issued in a procedure before the court or arbitration body or the Court of Honor of the Chamber of Commerce; and court settlement shall mean a settlement concluded before a court or arbitration body or the Court of Honor of the Chamber of Commerce.

(2) For purposes of this Law, a decision in an administrative procedure means an order or conclusion issued in an administrative procedure by a body or legal entities with public administrative authority; and an administrative settlement means a settlement concluded in an administrative procedure.

## Enforceability of a Decision

### Article 32

(1) A court decision ordering the satisfaction of a claim shall be enforceable if it has become final and if the time period for voluntary compliance has expired. A voluntary compliance period begins on the date on which the decision is delivered to the enforcement debtor and expires on the last day of the period stated in the court decision, unless provided otherwise by law.

(2) A court decision ordering abstention from action is enforceable when it has become final, unless the executive title states a later deadline for compliance with such obligation.

(3) A decision issued in an administrative procedure is enforceable if it has become enforceable in accordance with the rules governing such procedure.

(4) In the case of a decision that has become enforceable only in part, enforcement may be granted only on that part of the decision.

(5) Enforcement shall be granted also of a court decision that has not become final or an administrative procedure decision that has not become final, if the law provides that appeal does not suspend enforcement.

## Enforceability of a Settlement

### Article 33

(1) A court settlement and administrative procedure settlement shall be enforceable if the claim has matured.

(2) Maturity of the claim shall be proved by the minutes or record of the settlement, official document or a document certified in accordance with law.

(3) Maturity that cannot be proved in accordance with paragraph (2) of this Article shall be proved by effective and/or final decision issued in litigation or administrative procedure.

(4) If the settlement has matured only partially, enforcement may be granted only for that part.

## Suitability of Executive Title for Enforcement

### Article 34

(1) Executive title shall be suitable for enforcement if it designates the enforcement creditor and the enforcement debtor, the object of the enforcement, and the type, scope and time of fulfillment of the obligation.

(2) If the decision as an executive title does not state a deadline for voluntary compliance with the claim, the deadline shall be set in the decision on enforcement.

## Determination and Payment of Default Interest Rate

### Article 35

(1) If a change in the default interest rate occurs after establishment of the executive title,

the court shall, on motion of the enforcement creditor or enforcement debtor, state in its decision on enforcement the default interest at the changed rate.

(2) If the executive title determines the cost of proceedings, the court shall, on motion of the enforcement creditor, order the default interest rate to be paid on amount of costs adjudicated pursuant to regular rate, from the date of issuance of the executive title until the date of payment.

## Authentic Document

### Article 36

(1) Enforcement of a monetary claim may also be granted on the basis of an authentic document.

(2) For purposes of this Law, authentic conclusive documents are:

- 1) bill of exchange or cheque, with protest and with a return documentation if necessary for establishment of a claim;
- 2) bond and other serial securities entitling their holders to be paid in their nominal value;
- 3) invoice (bill);
- 4) business book excerpt for the price of utilities, water, heating, garbage collection and similar services;
- 5) official document constituting an enforceable monetary obligation, except foreign official documents;
- 6) bank guarantee;
- 7) letter of credit; and
- 8) judgment debtor's certified statement authorizing the enforcement creditor to transfer

funds.

(3) An interest rate calculation shall be considered to be an invoice (bill).

(4) An authentic document shall be suitable for enforcement if it designates the enforcement creditor, the enforcement debtor, the object of enforcement, and the type, scope and time period for fulfillment of the obligation.

(5) Where maturity of the claim cannot be determined from the authentic document, enforcement shall be granted only if the enforcement creditor submits a written statement confirming maturity of the claim and stating the date of the maturity.

(6) In a case where an authentic document states a means of payment, summary enforcement procedure shall be conducted at the request of the enforcement creditor.

## Transfer and Assumption of a Claim or Obligation

### Article 37

(1) Enforcement shall also be granted on the motion and in favor of a person who has not been designated as enforcement creditor in the executive title, if such person submits an official document or a legally attested document as evidence that the claim has been transferred to him or, if this is not possible, submits a final and enforceable court decision in litigation or decision issued in an administrative and misdemeanor procedure.

(2) Paragraph (1) this Article shall apply accordingly in a case against a third party who has not been designated as enforcement debtor in the executive title.

## Conditional and Mutual Obligations

## Article 38

(1) Enforcement dependent on prior fulfillment of an obligation of an enforcement creditor or on occurrence of some other condition shall be granted when the enforcement creditor proves the occurrence of such condition or the fulfillment of such obligation with an official document or a legally attested document.

(2) Fulfillment of an obligation or occurrence of a condition shall be evidenced by a final and enforceable decision issued in court litigation or an administrative and misdemeanor proceeding, if the enforcement creditor is not able to so prove in the manner stated in paragraph (1) of this Article.

(3) Where the executive title requires an enforcement debtor to fulfill an obligation that is dependent on concurrent fulfillment of an obligation to the enforcement debtor, the court shall grant enforcement if the enforcement creditor submits evidence of securing the fulfillment of his obligation.

(4) Performance of an enforcement creditor's obligation shall be considered to have been secured under paragraph (3) of this Article when the object which secures the performance is deposited with the court or another appropriate action is taken to similar effect.

(5) An enforcement creditor claiming that he has already fulfilled his obligation shall so prove in accordance with paragraphs (1) and (2) of this Article.

## Alternative Obligation of Enforcement Debtor's Choice

### Article 39

Where, according to an executive title, an enforcement debtor is entitled to choose among several objects securing performance of his obligation, the enforcement creditor shall, in the motion to enforce, designate the object of enforcement.

## Enforcement Debtor's Options

### Article 40

If an enforcement debtor has a nonmonetary obligation with an option to be excused from such obligation by paying a certain sum of money designated in the executive title, he may pay such sum instead of performing the nonmonetary obligation but only if the nonmonetary obligation has not been performed to any extent.

## Submissions and Hearings

### Article 41

(1) The court shall take actions in an enforcement procedure pursuant to submissions and other documents.

(2) The court shall hold a hearing when so required by this law and when it considers the holding of a hearing to be appropriate.

(3) The court shall hear the parties and other participants to the procedure outside the hearing if so provided by this law or if it considers this necessary for clarification of particular issues or particular motions.

(4) Absence of one or both parties or other participants from a hearing or their failure to comply with the court summons to the hearing shall not bar the court from proceeding.

## Means and Objects of Enforcement

### Article 42

(1) Means of enforcement are enforcement actions used to coercively enforce a claim in accordance with law.

(2) Means of enforcement for realizing of a monetary claim are: sale of chattels, sale of

immovable property, transfer of monetary claim, transfer of claim for handing over chattels or immovable property, monetizing other property rights, transfer of funds from bank accounts, sale of stock and shares in business entities.

(3) Enforcement measures may be conducted directly against the enforcement debtor and other persons in accordance with this Law.

(4) Objects of enforcement are things and rights on which enforcement of the claim may be carried out in accordance with law.

(5) The following are not eligible as objects of enforcement: nontransferable property and other objects explicitly so designated by law.

(6) Claims based on taxes and other public dues may not be objects of enforcement.

(7) Facilities, weapons and equipment which are used for security and defense of the State may not be objects of enforcement.

(8) Eligibility of particular objects or rights to be objects of enforcement, and whether limitations exist in respect of enforcement on certain objects or rights, shall be determined in accordance with the circumstances at the time of submission of the motion to enforce, unless otherwise provided by this Law.

## Costs of the Procedure

### Article 43

(1) The costs of a procedure for determining and conducting enforcement shall be advanced by the enforcement creditor.

(2) The enforcement creditor shall advance the costs of enforcement within a time period set by the court, which may not be less than 30 nor more than 60 days. The court shall suspend enforcement if the costs are not advanced within such set period, if such costs are necessary for conducting the enforcement.

(3) The court shall bear the costs of advance payment where the enforcement procedure is initiated ex officio.

(4) The enforcement debtor is obligated to reimburse the enforcement creditor at his request for costs necessary for enforcement.

(5) The enforcement creditor is obligated to reimburse the enforcement debtor at his request for costs unnecessarily inflicted on the enforcement debtor.

(6) The request for reimbursement of costs may be submitted no later than 30 days after the conclusion of the procedure.

(7) The court shall decide on costs in the enforcement procedure and shall grant enforcement for their collection at the motion of a party.

## Guarantee

### Article 44

(1) A guarantee under this Law shall be deposited in cash or hard currency.

(2) Exceptionally, the court may determine, with agreement of the enforcement creditor, that a guarantee may be based on securities or objects whose value may be easily determined on the market and that may be sold quickly and easily.

(3) The other party shall have a lien on a deposited guarantee.

(4) If, in during an enforcement procedure, the court decides on an opposing party's right for reimbursement of damages or costs of the procedure related to the action for which guarantee was deposited, it shall, on motion of the party and in the same decision, rule also on payment of the claim out of that guarantee.

## Chapter Two

### FINES AND COURT PENALTIES

#### 1. Fines

##### Fines

## Article 45

(1) Where this law provides for a fine, such fine may be levied against a natural person in the amount of 3,000 to 150,000 dinars, and against a legal entity in the amount of 30,000 to 1,500,000 dinars.

(2) A fine referred to in paragraph (1) of this Article may be levied again and in an increased amount, concurrently with the enforcement of the previous fine, if the enforcement debtor fails to comply with a repeated order of the court or continues to act contrary to the prohibition. Relevy and enforcement of the fine shall be repeated in amount up to 10 times the original fine, until the fined person complies with the order of the court.

(3) Prior to levying the fine the court shall allow the enforcement debtor to be heard and, where appropriate, shall hold a hearing for presentation of evidence.

(4) A fine shall be ordered by the judge in a decision, and in determining the amount thereof the judge shall have regard to the economic strength or circumstances of the enforcement debtor, the significance of the action that should have been performed, and other circumstances of the case. The decision shall also set the time period for payment.

(5) The person who is fined may file an appeal from the order on fining within three days of receiving the order.

(6) The person against whom a fine is levied or enforced shall bear all costs of the levy or enforcement.

(7) The fine shall be collected by the court ex officio if the enforcement debtor fails to pay it voluntarily. Costs of enforcement of the fine shall be collected together with the enforcement of the fine.

(8) The fine referred to in this Article may also be levied and enforced against the enforcement debtor, his debtor, a bank or another natural person or legal entity, as well as responsible officials of the legal entity, if they fail to comply with the order or ban issued in the enforcement procedure, where so provided under this Law.

## 2. Court Penalties

### Procedure for Decision

## Article 46

(1) A court shall decide in an enforcement procedure, on request of the enforcement creditor, to order the enforcement debtor who owes a nonmonetary obligation as determined in the final judgment, to pay court penalties which are provided in the law on contracts and torts.

(2) The request for payment of court penalties may be filed with the competent court for enforcement of the decision determining a nonmonetary obligation before the motion to enforce is filed.

(3) The rules on expedition shall apply to requests for payment of court penalties. The court shall, as a rule, decide on a motion to pay court penalties without holding a hearing.

(4) If the court finds that a motion for court penalties is merited, it shall by decision require the enforcement debtor to pay the court penalties for the period beginning with the filing of the motion for payment of court penalties and ending with the filing of the motion for enforcement.

(5) An order granting or rejecting court penalties may be appealed.

(6) Upon receiving a motion to enforce a decision ordering an enforcement debtor to perform a nonmonetary obligation, the court shall remand the obligation to pay penalties in the future.

(7) A debtor, who voluntarily performs the obligation after the order on court penalties but before the motion for enforcement, may file a motion for reduction of adjudicated court penalties, in accordance with the law on contracts and torts.

(8) A motion to reduce court penalties shall be decided by decision of the court which rules on payment thereof. An appeal may be filed against the order that grants or rejects a motion to reduce the amount of court penalties.

## Enforcement

## Article 47

An order on court penalty payment obligation shall be enforced in accordance with the provisions of this Law which are applicable to enforcement of monetary obligations.

## Chapter Three

### MOTION TO ENFORCE

#### Subject Matter Jurisdiction

##### Article 48

The court designated by law shall have subject matter jurisdiction to decide on the motion to enforce.

#### Content of the Motion and Appended Materials

##### Article 49

(1) A motion to enforce must state: enforcement creditor and enforcement debtor, executive title or authentic document, obligations of the enforcement debtor, means and objects of enforcement, and other data necessary for carrying out of the enforcement.

(2) Together with a motion to enforce, the enforcement creditor is obligated to submit the original or certified copy of the executive title or authentic document and other documents in cases where this Law requires it.

#### Certification of Enforceability

##### Article 50

(1) Where a motion to enforce is not submitted to the court that decided on the claim in the first instance, the motion shall be accompanied by an original or certified copy of executive title with certification of enforceability, or an authentic document shall be submitted.

(2) A certification of enforceability shall be issued by the court or other authority that has decided on the claim in the first instance.

(3) A certification of enforceability with no legal grounds shall be remanded by the same court or other authority, on motion or ex officio.

#### Withdrawal of the Motion

##### Article 51

(1) The enforcement procedure shall be terminated without the enforcement debtor's consent, if the enforcement creditor withdraws the motion to enforce entirely or in part.

(2) The decision on termination shall have the effect of revoking all already conducted enforcement activities if doing so does not affect the rights of third parties.

#### Decision on the Motion

##### Article 52

(1) A decision on enforcement shall state: the enforcement creditor and enforcement debtor, executive title or authentic document, claim of the enforcement creditor, means and objects of enforcement, and other data necessary for enforcement according to this Law.

(2) In a decision on enforcement based on authentic document the court shall obligate the enforcement debtor, within a deadline of eight days, and in disputes on cheques and bills of

exchange within three days, after the delivery of the decision, to settle the claim together with adjudicated costs and shall order enforcement to realize those claims.

(3) The decision on enforcement referred to in paragraph (2) of this Article shall include notice of the availability of the legal remedy to file an objection.

(4) An order that fully or partially rejects a motion to enforce shall contain an explanation.

## Service of a Decision on Enforcement

### Article 53

(1) A decision on enforcement shall be served on the enforcement creditor and the enforcement debtor, while a decision rejecting a motion to enforce shall be served only on the enforcement creditor.

(2) The motion to enforce shall be attached to a decision on enforcement served on the enforcement debtor.

(3) A decision on enforcement on a monetary claim shall also be served on a debtor of the enforcement debtor, and a decision on enforcement against assets kept in the account of the enforcement debtor shall also be served on the organization for enforced collection.

(4) A decision on enforcement against chattels shall be served on the enforcement debtor immediately before the initiation of the first enforcement action, unless provided otherwise in this Law.

(5) If the court issuing the decision on enforcement does not have jurisdiction to conduct the enforcement, it shall hand the decision over to the court of competent jurisdiction for service and conducting the enforcement.

## Chapter Four

### CONDUCT OF ENFORCEMENT

#### Enforcement Based on a NonFinal Decision on Enforcement

##### Article 54

Enforcement may be conducted before the enforcement order has become final, unless provided otherwise in this Law.

##### Time of Enforcement

##### Article 55

(1) Enforcement shall be conducted during daytime on working days, before 8 PM.

(2) Enforcement may be conducted on nonworking days or during the nighttime only if there is a risk due to delay and the court shall decide on this by conclusion.

#### Actions of the Court Enforcement Official

##### Article 56

(1) A court enforcement official is obligated, in the course of a search of an enforcement debtor's premises or clothes he is wearing, and in the course of conducting other enforcement actions, to act with due respect for the enforcement debtor and members of his household.

(2) At least two adult citizens must be present during enforcement actions at the premises of the enforcement debtor, if the enforcement debtor, his legal representative, a person who has the power of attorney or some other adult household member is not present.

(3) If an enforcement action is to be conducted in a locked room and the enforcement debtor is not present or refuses to unlock the room, the court official shall open such room in the presence of two adult citizens.



## Obstruction of the Court Enforcement Official's Work

### Article 57

- (1) A court official is authorized to remove a person who obstructs the course of enforcement.
- (2) In the course of an enforcement procedure, police shall provide the court official with all assistance necessary for carrying out the enforcement. A court official may, if the need arises, direct the use of appropriate measures against a person obstructing the enforcement.
- (3) When undertaking their actions the police shall act in accordance with their regulations.
- (4) Coercive measures provided for in this Law may be carried out in the enforcement procedure only if they are necessary.
- (5) A court is obligated to report any police disobedience of a court official's instruction for enforcement assistance, to the Ministry of Internal Affairs.

## Irregularities in Conducting the Enforcement

### Article 58

- (1) A party or participant may file a submission with the court requesting correction of irregularities caused by the court enforcement official in conducting enforcement.
- (2) The court shall issue a decision remanding illegal and irregular actions of the court enforcement official.

### Chapter Five

## COUNTERENFORCEMENT

### Reasons for CounterEnforcement

#### Article 59

- (1) After an enforcement has been carried out, the enforcement debtor may file a motion with the court for counterenforcement, requesting the enforcement creditor to return what he has acquired through enforcement, if:
  - 1) executive title has been revoked, reversed, or annulled or has otherwise become legally ineffective; 2) the enforcement debtor has voluntarily paid the enforcement creditor's claim in the course of the enforcement procedure; 3) the enforcement decision has been remanded or reversed by a final decision; or 4) a final court decision has declared enforcement inadmissible.
- (2) The motion for counterenforcement based on grounds stated in paragraph (1) 3) or 4) of this Article may be submitted within 30 days after the delivery of the decision to the enforcement debtor, and a motion on grounds stated in paragraph (1) 2) of this Article may be submitted within 15 days after the termination of the enforcement procedure.
- (3) An enforcement debtor may not resort to litigation prior to the expiration of the time periods stated in this Article.

### Procedure on Motion for CounterEnforcement

#### Article 60

- (1) The court shall serve a motion for counterenforcement on the enforcement creditor and order him to answer the motion within three days after the date of service.
- (2) If the enforcement creditor challenges the motion within that period, the court shall issue a decision on it, with the possibility to conduct a hearing.
- (3) In the decision sustaining the motion, the court shall order the enforcement creditor to return to the enforcement creditor, within eight days, whatever was received as result of the enforcement.

(4) An appeal from a decision referred to in the previous paragraph shall suspend the enforcement.

(5) Where an enforcement has been conducted for collecting a monetary claim, the court shall, on request of the enforcement debtor, order collection of default interest at the statutory rate on the amount of money that was the object of enforcement, from the date of enforcement until the date of return of the funds.

## Decision on CounterEnforcement

### Article 61

(1) Based on a final and enforced decision that has obligated the enforcement creditor to return to the enforcement debtor what he has collected, the court shall on motion of the enforcement debtor issue a decision for counterenforcement.

(2) Counterenforcement shall be conducted in accordance with the provisions of this Law.

### Impossibility of CounterEnforcement

### Article 62

(1) A motion for counterenforcement shall not be sustained in a case where it is requested to return an item which has undergone such legal or factual change that restitution is no longer possible.

(2) In such a case, the enforcement debtor may resort to litigation before the expiration of the time limit for submission of the motion to counterenforce.

## Chapter Six

### POSTPONEMENT AND TERMINATION OF ENFORCEMENT

#### Postponement of Enforcement on Motion of an Enforcement Creditor

##### Article 63

(1) On motion of an enforcement creditor, the court shall fully or partially postpone enforcement if conducting of enforcement has not yet commenced.

(2) If conducting of enforcement has commenced and the enforcement debtor has objected to postponement within the time limit set by the court, the court shall reject the motion for postponement.

(3) If the law provides that enforcement must be requested within a stated time period, the enforcement creditor may file a motion for postponement within that period.

#### Postponement of Enforcement on Motion of the Enforcement Debtor

##### Article 64

(1) Upon motion of the enforcement debtor, the court shall fully or partially postpone enforcement if the debtor establishes the probability that enforcement would cause him irreparable damage or damage that can hardly be repaired in cases in which:

- 1) a first instance decision has been issued granting the request of the enforcement debtor to set aside executive title;
- 2) a first instance decision has been issued granting the request of the enforcement debtor to set aside a decision on enforcement;
- 3) a first instance decision has been issued granting a request of the enforcement debtor to set aside a certification of enforceability; or
- 4) enforcement was dependent on simultaneous performance of the enforcement creditor's obligation and the enforcement debtor has not performed his obligation on the ground that the enforcement creditor has neither performed his obligation nor shown readiness to do so.

(2) Upon request of the enforcement debtor, the court may fully or partially postpone enforcement in other situations where there are exceptional justifications for such decision and the enforcement debtor proves by public or legally attested documents or establishes the likelihood that enforcement would cause him irreparable or hardly repairable damage.

(3) The court may condition the postponement upon providing of a guarantee.

(4) The enforcement debtor's submission of a motion to postpone enforcement and an appeal from an order denying such motion shall not suspend further conducting of the enforcement.

(5) A third party may submit a motion to postpone enforcement in accordance with conditions stated in paragraph (2) of this Article.

### Postponement of Enforcement upon Third Party Motion

#### Article 65

(1) A court may, on motion of a third party who initiated litigation as referred to in paragraph (4) of Article 23 of this Law, postpone enforcement if the court finds that such third party would suffer severe damage, and the court may determine that within eight days after service of the decision, the third party must provide a guarantee in the amount of the claim.

(2) If a court postpones enforcement of a nonmonetary claim with a condition that a guarantee be provided, the amount of the guarantee shall be determined taking account of all circumstances of the case.

### Period of Postponement of Enforcement

#### Article 66

(1) Where enforcement has been postponed on motion of an enforcement creditor, the court shall postpone enforcement for the period requested by the enforcement creditor.

(2) If an enforcement creditor has filed a motion to postpone enforcement in a case where the law provides that enforcement shall be required within a prescribed time period, enforcement shall not be postponed beyond that period.

(3) Where enforcement is postponed on motion of an enforcement debtor as referred to in paragraph (1) 1) and 3) of Article 64, enforcement shall be postponed until the litigation or other procedure has ended.

(4) Where enforcement is postponed on motion of an enforcement debtor as referred to in paragraph (2) of Article 64, enforcement may be postponed only once, for a period no longer than 90 days.

(5) Where enforcement is postponed on motion of a third party, the time limit referred to in paragraph (3) of this Article shall be applicable to the period of postponement.

### Continuing a Postponed Enforcement

#### Article 67

(1) A postponed enforcement shall be continued ex officio following the expiration of the period of postponement.

(2) The court may continue the enforcement on motion of an enforcement creditor before the postponement period has expired, if the enforcement creditor demonstrates a probability that the reasons for postponement have ceased to exist, or provides a guarantee.

### Termination of Enforcement

#### Article 68

(1) In addition to other cases provided for under this Law, enforcement shall be discontinued ex officio if the executive title has been finally revoked, reversed, annulled, or otherwise rendered ineffective, or the certification of enforceability has been finally revoked.

(2) The court shall ex officio terminate enforcement if, in the course of the enforcement procedure and until the enforcement has been carried out, it is determined that the claim has

ceased to exist due to destruction of the object of enforcement, death or ceasing to exist of a party without a legal successor, settlement of the claim, and other grounds provided by law.

(3) The decision terminating enforcement shall revoke all previous enforcement actions if to do so does not infringe rights acquired by third parties.

## PART THREE

### ENFORCEMENT OF MONETARY CLAIMS

#### Chapter One

#### ENFORCEMENT AGAINST CHATTELS

##### 1. General Provisions

###### Territorial Jurisdiction

###### Article 69

(1) The court in whose territory chattels are located shall have territorial jurisdiction to decide on a motion to enforce against such chattels and to conduct the enforcement.

(2) If the motion does not specify the location of chattels, territorial jurisdiction to decide on such motion shall be in the court where the enforcement debtor has domicile or residence, or has its registered office.

###### Exemption from Enforcement

###### Article 70

The following items shall be exempt from enforcement:

1) clothes, shoes, underwear and other items of personal use, bed linen, dishes, furniture necessary to the enforcement debtor and the members of his household, as well as stove and refrigerator;

2) food and heating needed by the enforcement debtor and his household for a period of three months;

3) the enforcement debtor's cash, where he has permanent monthly income, up to the monthly amount exempted from enforcement according to law, in proportion to time until the next income portion;

4) decorations, medals, certificates of war service and other decorations and awards, personal correspondence, manuscripts and other personal documents of the enforcement debtor, as well as family photographs;

5) orthopedic devices necessary for vital functions of a disabled person or other handicapped person;

6) mail or a postal money order sent to the enforcement debtor, before it is delivered to him.

###### Enforcement Actions

###### Article 71

(1) Enforcement against chattels shall be conducted by inventory and valuation of the chattels, sale of chattels, and satisfaction of the enforcement creditor from the proceeds of the sale.

(2) A motion to enforce may request that only inventory and valuation be made, but in such case the enforcement creditor is obligated to file a motion for sale of chattels within three months after the date of the enforcement inventory or valuation.

(3) If the enforcement debtor does not file a motion for sale within that period, enforcement shall be terminated.

## 2. Inventory and Valuation of Chattels

### Notice on Inventory

#### Article 72

(1) A court enforcement official shall, immediately prior to inventory, serve the decision on enforcement on the enforcement debtor and shall invite him to pay the amount ordered with interest and costs.

(2) If the decision on enforcement cannot be served on the enforcement debtor in the course of the inventory, it shall be served on him subsequently according to the general rules on service.

(3) The enforcement creditor shall be informed of the time and location of inventory, if he so requests.

(4) Absence of the parties shall not prevent the inventory.

(5) An absent party shall be informed of an inventory that has been carried out.

### Object of Inventory

#### Article 73

(1) Items in possession of an enforcement debtor and his items in possession of an enforcement creditor may be subject to inventory.

(2) If a third party does not inform the court of his rights in a chattel that is in possession of an enforcement debtor and which is subject to enforcement, and does not provide evidence of his rights in them, the court shall consider that such rights of the third party do not exist and shall regard the enforcement debtor as owner of the objects in his possession.

(3) Items of an enforcement debtor that are in possession of a third party may be objects of the inventory only with that person's consent.

(4) If the third party consents to the inventory, the court shall by conclusion and at the motion of the enforcement creditor transfer the enforcement debtor's right to request handover of the item in order to carry out enforcement in accordance with rules on transfer for purposes of satisfaction.

(5) Spouses or extramarital partners shall be considered joint owners in equal share of all chattels that are found in their house, flat, business office or other real property.

### Scope of the Inventory

#### Article 74

(1) The inventory list shall contain as many items as are necessary for settlement of the claim of the enforcement creditor and costs of enforcement.

(2) Priority of recordation on the inventory list shall be afforded to items where no objection regarding rights preventing enforcement have been lodged, and items that are easy to convert into cash, taking into account statements of the present parties and third parties.

(3) The court may subsequently order enforcement on another object, and not on the object initially placed on the inventory list upon the enforcement creditor's motion, if there is substantial discrepancy between the value of that object and amount of the claim.

### Effect of Inventory

#### Article 75

(1) An enforcement creditor shall acquire a court lien on items on the inventory list at the moment in time when the court official signs the inventory record. The court official shall, alongside his signature, clearly mark the day and hour on which the record was signed.

(2) The parties may request the court to revise the inventory within three days after the inventory's completion. The court shall decide on revision within three days of receipt of the request.

(3) On items that were included in inventory through a conclusion of the enforcement judge, the lien is established at the moment in time of issuing of the conclusion, and on items deleted from the inventory such lien shall cease.

(4) Where the inventory has been completed in favor of several enforcement creditors, their order of priority in acquiring the lien shall be determined according to the date on which their motion to enforce was filed with the court, and if the motions to enforce were filed on the same date, their liens shall have the same order of priority.

(5) Where the motion to enforce has been sent by certified mail, the recorded date of delivery to the post shall be considered the date on which the motion was filed with the court.

#### Registration and Publication of Court Lien

##### Article 76

(1) The court shall, without delay, deliver a copy of the inventory record and of any conclusion on revision of the inventory to the organization that has statutory authority to register nonpossessory liens on chattels. The registered court lien, in relation to a registered lien of other creditors against the same chattel, shall be calculated from the moment in time when the court lien was acquired through inventory or conclusion. From the moment of registration third parties are stopped from claiming that they were unaware of this right.

(2) A copy of the inventory record or a court conclusion on revising inventory shall be served on the enforcement creditor. The enforcement creditor is entitled to request registration of the court lien if the court has not previously done so.

(3) The court official shall visibly display a copy of the inventory record or a conclusion in the room in which the item is located at the time of inventory, and inventoried items that are left in possession of the enforcement debtor shall be visibly marked that they have been inventoried.

(4) A person who removes a copy of the inventory record or inventory mark shall be fined in accordance with Article 45 of this Law.

#### Safekeeping of Items on Inventory List

##### Article 77

(1) Items on the inventory list are, as a rule, left for safekeeping with the enforcement debtor.

(2) On motion of the enforcement creditor, the court shall hand over the items to him or to a third party for safekeeping if he establishes the probability that those items might be damaged or disposed of or their value otherwise diminished. The enforcement debtor shall bear the costs of safekeeping, as well as the risk of damage and destruction, unless damage or destruction may be attributed to the fault of the creditor or the person to whom items have been entrusted for safekeeping.

(3) On the motion of the enforcement creditor, the court may hand over items on the inventory list to him or a third party he specifies. The costs of safekeeping shall be initially borne by the enforcement creditor and the enforcement debtor shall be liable for their repayment. The enforcement creditor shall be liable for any risk of damage or destruction of items handed over for safekeeping to the enforcement creditor or third party, unless the destruction or damage occurs due to force majeure or accident.

(4) Cash, securities and other valuable items shall be handed over to court deposit for safekeeping.

(5) Other items of higher value shall also be handed over to court deposit if they are suitable for that kind of safekeeping.

#### Prohibition of Disposal of Items on Inventory List

##### Article 78

Every person in possession of or having control over items on the inventory list shall be prohibited from disposing of such items without court authorization.

#### Unsuccessful Inventory Attempt

##### Article 79

(1) When, in the course of inventory, no chattels are found that could be the object of enforcement, the court shall so inform the enforcement creditor who was not present at the inventory.

(2) At the motion of an enforcement creditor who establishes the probability that the enforcement debtor knows where missing chattels may be found, the court shall instruct the enforcement debtor to give information on the location of the chattels within three days after the date of service of the instruction. The obligation of the enforcement debtor to provide information shall be subject to rules on coercive enforcement applicable to obligations that may only be personally fulfilled by enforcement debtor.

(3) The enforcement creditor may within three months after the date of receiving the notification on unsuccessful attempt at inventory and/or after the date of unsuccessful inventory which he attended, file a motion for reconducting of inventory.

(4) If the enforcement creditor fails to move for reconducting of the inventory within the above deadline or if no chattels that may be objects of enforcement are found during repeated inventory, the court shall discontinue enforcement.

#### Valuation

#### Article 80

(1) Valuation of items shall be done concurrently with the inventory.

(2) Valuation shall be done by the court enforcement official and, if necessary, by a qualified person or an expert witness appointed by court.

(3) Valuation shall be conducted on the basis of the market price of such item at the place of inventory. The court may decide to conduct valuation on the basis of price reports acquired from appropriate organizations and institutions.

(4) The enforcement creditor and the enforcement debtor may agree on the value of an item.

(5) A party may submit a motion for an expert witness to conduct the valuation if the court has not ordered it. If the court accepts such motion, the costs of the expert shall be paid in advance by the party that proposed it within the period set by the court. If the advance costs are not paid within such set period, the motion shall be considered withdrawn.

(6) The court shall issue a conclusion when deciding on motion referred to in paragraph (3) of this Article.

(7) Costs of the expert referred to in paragraph (3) of this Article shall be paid by the party proposing it, regardless of the outcome of the enforcement procedure.

(8) A party may, within three days after a valuation, submit a motion to the court to determine a higher or lower value of items listed in the inventory as compared to the assessed value, or to order new valuation, unless the valuation was conducted by a courtappointed expert witness. The court shall decide on the motion by conclusion.

#### Record of Inventory and Valuation

#### Article 81

(1) A record of inventory and valuation shall be made.

(2) A record shall, among other things, contain specific items in the inventory list and their assessed value and shall contain entries of statements of the parties and participants to the procedure, as well as statements of third persons regarding rights that prevent enforcement.

(3) If the court orders valuation after inventory to be conducted through expert appraisal or acquisition of data of organizations and institutions, the valuation shall have its separate record.

(4) An enforcement creditor may publish the inventory record in the media at his own expense.

#### Notice Instead of Inventory

#### Article 82

(1) If, after inventory, enforcement is granted against inventoried items for collection of another claim of the same enforcement creditor, or for collection of a claim of another enforcement creditor, no new inventory and assessment shall be made of those items, and only a recordation shall be entered in the record regarding data from the subsequent decision on enforcement.

(2) Enforcement creditors that are beneficiaries of the notice/recordation shall acquire a lien on inventoried items.

(3) The organization keeping the register on liens on chattels shall be informed promptly of the notice/recordation and is required to enter the thus acquired lien in the register.

### 3. Sale of Items

#### Time of Sale

##### Article 83

(1) Sale of items on the inventory list shall be conducted after the decision on enforcement has become final, unless the enforcement debtor proposes or consents to the motion of the enforcement creditor to conduct the sale earlier, or if items are susceptible to quick deterioration or if there is risk of significant reduction of their price.

(2) The sale may not be conducted before the expiration of 15 days after the date of the inventory.

(3) The sale may be conducted before the expiration of the period set in paragraph (2) of this Article if the enforcement debtor consents to sale before expiration of that period or if items are susceptible to quick deterioration or there is danger of a significant reduction of their price, or if the enforcement creditor deposits a guarantee for damages that he would have to compensate the enforcement debtor for if the decision on enforcement does not become final.

#### Manner of Sale

##### Article 84

(1) The sale shall be conducted by a public auction or through direct agreement. The court shall issue a conclusion on the manner of the sale, with the purpose of obtaining the highest monetary value.

(2) Public auction shall be ordered especially when there are items of higher value, and if sale over assessed price is to be expected.

(3) Sale through direct agreement is a contract concluded between a buyer, on one side, and a court enforcement official or a person acting as commissionaire, on the other side.

(4) A court enforcement official shall sell items for and on behalf of the enforcement creditor, while a commissionaire shall sell in his own name on behalf of the enforcement creditor.

(5) The sale shall be posted on the court notice board at least 15 days before the public auction hearing.

(6) The court shall inform the enforcement creditor and debtor of the place, date and hour of sale.

#### Sale Price

##### Article 85

(1) Inventory items may not be sold at the first auction or within the period set by the court for sale through direct agreement, for a price below their appraised value.

(2) If the appraised value has not been obtained at the first auction, upon motion of the party the court shall order another auction with the opening price set at half of the appraised value.

(3) The provisions of paragraph (2) of this Article shall apply accordingly when items listed in the inventory could not be sold at the appraised value through direct agreement within a period set by the court, or at some subsequent public auction hearing.



## Termination of Procedure

### Article 86

(1) A party may submit a motion for a second auction or direct agreement within 30 days after the date of the first auction or date on which direct agreement period set by the court has expired.

(2) If the motion is not submitted within the time period referred to in paragraph (1) of this Article, the procedure shall be terminated.

## Buyer's Rights and Obligations

### Article 87

(1) The winning bidder shall pay the price of the chattel immediately after the results are announced, unless the court provides otherwise in a conclusion. If the bidder does not pay immediately at the court's request, the second highest bidder shall be declared the winning bidder and shall pay the price he offered, and so forth.

(2) If none of the suitable bidders pays the price immediately at the court's request, the court shall at the motion of one of the parties declare the first hearing sale unsuccessful.

(3) The enforcement creditor may file a motion with the court to set a new auction within eight days from the date of the unsuccessful auction.

(4) If the enforcement creditor fails to move for a new hearing within eight days, the procedure shall be discontinued.

(5) The buyer shall receive the item from the court official upon payment of the price.

(6) The court official shall hand over the items to the buyer even if he has not deposited the price, if the enforcement creditor or participants having priority for settlement consent to that at their own risk, within limits of the sum they were entitled to.

(7) If the item is handed over to the winning bidder, and if he fails to deposit the price within the period prescribed, persons referred to in paragraph (4) of this Article may request the court to order the buyer in the same procedure to pay the price, and request enforcement against the buyer once the order is final and enforceable.

## 4. Satisfaction of Enforcement Creditor

### Satisfaction When There is Only One Enforcement Creditor

#### Article 88

(1) When only one enforcement creditor is paid from the sale proceeds, the court shall, without holding a hearing, issue an order to pay in the following order of priority: costs of the enforcement procedure, costs set out in executive title, interest due until the date of sale, and main claim.

(2) Any surplus remaining from the sale proceeds after such satisfaction shall be paid over to the enforcement debtor, if there is nothing to prevent this.

(1) When two or more enforcement creditors are to be satisfied in the enforcement procedure or if, in addition to enforcement creditors, other persons whose rights cease to exist after the sale of an

item are being satisfied, satisfaction shall be conducted in accordance with the provisions on priority from sale of immovable property and priority of acquisition of liens or other rights that will cease to exist through the sale, unless otherwise provided by law for certain specific claims. Enforcement creditors of the same priority who can not be fully satisfied from the sale proceeds shall be satisfied in proportion to the amounts of their claims.

(2) Once the decision on satisfaction is issued, the court shall take into account only those claims for which the decision on enforcement became final before the satisfaction order was issued.

(3) Any surplus remaining from the sale proceeds after such satisfaction shall be paid over to the enforcement debtor, if there is nothing to prevent this.

### Satisfaction When There is More Than One Enforcement Creditor

## Article 89

### Satisfaction Through Award of the Item to the Enforcement Creditor

## Article 90

(1) If the item could not be sold at a second auction hearing or in a direct agreement within the period set by the court, the court shall, on the motion of the enforcement creditor, award the item to the creditor.

(2) In cases referred to in paragraph (1) of this Article, the enforcement creditor shall be considered satisfied in the amount of one half of the item's appraised value.

### Application of Provisions on Enforcement Against Immovables

## Article 91

The provisions of this Law on enforcement against immovable property relating to the issue of eligibility of the buyer, challenge to the claim, reference to litigation, and decision on satisfaction shall be applied accordingly in the case of enforcement against chattels for satisfaction of a monetary claim, unless provided otherwise in this Chapter.

## 5. Prolonged Enforcement Procedure for Satisfaction of Monetary Claims

### Requirements for Initiating Procedure

## Article 92

An enforcement creditor who was not fully satisfied in an enforcement procedure may submit a request to the court to obtain a statement on the enforcement debtor's assets, which would entitle him to seek enforcement against assets which had been unknown to him prior to that time.

### Procedure

## Article 93

(1) The court shall issue a decision ordering the enforcement debtor to submit to the court a statement of assets within the time period of 10 days.

(2) If the enforcement debtor fails to comply with the decision within such time period, the court shall issue a decision setting a hearing at which the court shall invite the enforcement debtor to submit a statement of his assets.

(3) If the enforcement debtor fails to comply with the court decision or fails to appear at the scheduled hearing, the court shall issue a decision to compel him to appear.

(4) Upon receiving the statement of assets, the court shall deliver one copy of the statement to the enforcement creditor.

### Legal Consequences of Providing Incomplete or False Data

## Article 94

(1) If an enforcement debtor provides incomplete or false data in the statement of assets, it shall be considered that such false presentation and hiding will mislead the enforcement creditor and thus enable the enforcement creditor to satisfy his claim against the assets which were falsely presenter or hidden.

(2) Any interested party who determines that a statement of assets is incomplete or false, may initiate a criminal procedure against the enforcement debtor.

### Recording in the Book of Enforcement Debtors

## Article 95

(1) The court is obligated to keep a book of enforcement debtors which will contain a record of enforcement debtors with their statements of their assets.

(2) The court is obligated within a period of three days after receipt of a statement of assets to record the enforcement debtor in the book of enforcement debtors.

(3) Upon request of the enforcement debtor the court shall delete the entry on expiration of three years after the date of recording.

(4) The court may perform the deletion earlier than the time period stated in paragraph (3) of this Article if the creditor who requested entry into the book submits to the court a statement that his claim is satisfied.

## Legal Consequences of Recording in the Book of Enforcement Debtors

### Article 96

(1) Any interested party may request the court to allow him to inspect the book of enforcement debtors or to provide him information on the entry of a specific person in the book of enforcement debtors.

(2) Upon request of a person who has a legal interest, the court shall be obligated to allow inspection of the book or to provide information on the entry on enforcement debtors in the book within three days after filling of the request.

(3) An enforcement creditor at whose request an enforcement debtor submitted a statement of assets recorded in the book of enforcement debtors, shall not obtain priority rights to such assets by virtue thereof.

## Objection

### Article 97

(1) An enforcement debtor may file an objection to a decision to record in the book of enforcement debtors within three days after delivery of the decision.

(2) Such objection shall be decided upon by a panel of three judges of the same court within three days after receipt of the objection.

(3) An objection shall suspend action to record the enforcement debtor in the book of enforcement debtors.

## Chapter Two

### ENFORCEMENT AGAINST IMMOVABLE PROPERTY

#### 1. General Provisions

##### Territorial Jurisdiction

#### Article 98

The court in whose territory immovable property is located shall have territorial jurisdiction to decide on a motion to enforce against such property and to conduct the enforcement.

##### Enforcement Actions

#### Article 99

Enforcement against immovable property shall be conducted by recordation of the decision on enforcement in the public book, determining the value of the immovable property, sale of the immovable property, and satisfaction of the enforcement creditor from the proceeds of the sale.

##### Evidence of Enforcement Debtor's Ownership

## Article 100

(1) An enforcement creditor shall, when submitting a motion to enforce against immovable property, submit an excerpt from the public book evidencing that the immovable property is registered as the enforcement debtor's property.

(2) If the right to immovable property referred to in paragraph (1) of this Article is recorded in the public book in another person's name and not that of the enforcement debtor, the enforcement creditor shall be obligated to submit a document suitable for recordation of the enforcement debtor's ownership.

(3) In cases referred to in paragraph (2) of this Article, recordation shall be executed ex officio by the court with which the motion to enforce was filed or, at the court's request, by the body maintaining the public book for that immovable property.

## Immovable Property Coowned by an Enforcement Debtor

### Article 101

(1) A court shall grant enforcement against immovable property coowned by an enforcement debtor, if the other coowners have agreed thereto.

(2) With the agreement of all coowners the court shall allow enforcement through sale of the entire immovable property under coownership to a third party or to one of the coowners.

(3) From the proceeds realized, the other coowners shall be satisfied before satisfaction of the enforcement creditor and before paying costs of enforcement procedure.

(4) This shall affect preemptive rights of coowners.

## Entry of Decision on Enforcement (Recordation of Enforcement)

### Article 102

(1) A decision on enforcement shall be recorded in the public book, or another appropriate entry shall be made in accordance with provisions on the entry of rights in immovables in the public book.

(2) Such entry shall entitle the enforcement creditor to satisfy his claim from the immovable property even when a third party subsequently acquires ownership of the same immovable property.

(3) The enforcement creditor who has filed a motion to enforce, but has not acquired a prior lien, shall by recordation of the decision on enforcement acquire the right to satisfaction from the immovable property before a person who subsequently acquires a lien or satisfaction rights in that immovable property.

## Enforcement Stage

### Article 103

(1) A separate enforcement procedure against the same immovable property shall not be allowed for satisfaction of another claim or another enforcement creditor after the decision on enforcement has been recorded.

(2) An enforcement creditor for whose claim enforcement had been subsequently ordered on the same immovable property shall join the enforcement procedure that is already underway.

(3) An enforcement procedure that has already started may be joined until the decision for awarding immovable property to the buyer has become final, in the case of sale by direct agreement, or until the decision for transfer of property is final, in the case of auction sale.

(4) The court shall inform the enforcement creditor in whose favor a previous decision on enforcement was recorded, about joining of the proceeding.

## Enforcement Against Other Immovable Property

#### Article 104

(1) On motion of the enforcement debtor the court may order enforcement to be conducted against immovable property other than the specific property proposed by the enforcement creditor for enforcement, or may order enforcement by other means, if there is substantial disproportion between the value of the immovable property and the amount of the claim, and the other immovable property or means is sufficient for satisfaction of the claim.

(2) The enforcement debtor may file the motion referred to in paragraph (1) of this Article not later than 15 days from the date of recording of the decision on enforcement in the public book.

(3) Where another means of enforcement has been ordered, recordation of the decision on enforcement against immovable property shall remain valid until satisfaction of the enforcement creditor.

#### Satisfaction of Lien Creditor

##### Article 105

A lien creditor who has not filed a motion to enforce shall also be satisfied in the enforcement procedure against immovable property.

#### Termination of Lien

##### Article 106

(1) A lien recorded against immovable property shall terminate on the date that a decision on transfer of immovable property becomes final, even if lien creditors are not fully satisfied.

(2) The buyer of the immovable property and the lien creditor may agree to retain a lien on immovable property even after the decision on transfer has become final, and may agree that the buyer shall take over the debt of the enforcement debtor to the lien creditor for the amount he would be entitled to in the enforcement procedure. In such case, the purchase price shall be reduced by an amount equal to that of the acquired debt.

#### Easements and Real Encumbrances

##### Article 107

(1) Sale of the immovable property shall not terminate real easements.

(2) Sale of the immovable property shall not terminate personal easements or real encumbrances that were recorded in the public book prior to the rights of lien creditors or the right to satisfaction of creditors on whose motion enforcement is ordered. Personal easements may be terminated on request of the creditor, with appropriate payment.

(3) Sale of the immovable property shall terminate other personal easements and real encumbrances.

#### Real Property Lease

##### Article 108

(1) Sale of an office building or office space shall not terminate a lease of that building or office space, if possession of the property has been handed over to the lessee before the decision on enforcement was issued.

(2) The buyer shall succeed to the rights and obligations of the lessor.

#### Lease of Apartment for an Unlimited Period in Accordance with the Tenancy Law

##### Article 109

Lease of an apartment for an indefinite period which was concluded before acquisition of a

lien right or a right of enforcement is requested, shall not be terminated by sale of the immovable property. The buyer shall acquire the status of lessor at the time of acquiring ownership of the immovable property.

#### Inspection of Immovable Property

##### Article 110

The court shall allow a person interested in buying the immovable property to inspect the property at an appropriate time.

#### Exemption of Certain Immovable Property from Enforcement

##### Article 111

(1) Agricultural land of a farmer up to 10 art may not be the object of enforcement.

(2) The provisions of paragraph (1) of this Article shall not apply to enforcement of a monetary claim secured by a contracted lien on immovable property (mortgage).

#### Method of Valuation

##### Article 112

(1) The court shall determine the value of immovable property after the decision on enforcement becomes final, on the motion of the enforcement creditor filed after the decision has been issued.

(2) Immovable property shall be valued at its market price on the date of valuation, based on opinions and findings of expert appraisers, other facts, or in accordance with other suitable methods.

#### Decreasing or Changing the Appraised Value

##### Article 113

(1) In appraising the value of immovable property, regard shall be taken to any extent to which the immovable property is worth less because of a specific right remaining thereon after the sale.

(2) The court shall by conclusion, on motion of a party that must be filed at least eight days before the sale hearing, redetermine the value of the immovable property at the sale hearing, if the party provides probable grounds that the value has substantially changed between the date of the previous valuation and the date of the sale.

#### Decision on Determination of Value

##### Article 114

(1) The court shall determine the value of immovable property by decision.

(2) An appeal may be filed from the decision referred to in paragraph (1) of this Article.

#### Termination of Enforcement Due to Insufficient Collateral

##### Article 115

(1) A person who has a right to be satisfied from sale proceeds of immovable property which is higher in priority than the claim of the enforcement creditor who proposed enforcement, may propose termination of the enforcement if the determined value of the immovable property is insufficient to cover his claim.

(2) The motion to terminate enforcement must be filed within eight days after the date of delivery of the conclusion on the sale.

## 2. Sale of Immovable Property

### Conclusion on the Sale

#### Article 116

(1) After the decision on enforcement and the decision on determining the immovable property value have become final, the court shall issue a conclusion on the sale of immovable property which states the method and conditions of sale, the time and place of the sale, the time period during the day when inspection of the property will be allowed, if the sale is conducted by public auction.

(2) The conclusion on sale shall be posted on the court's notice board and in other appropriate ways.

(3) A party may at his expense publish the conclusion on sale in public media and may inform immovable property agents.

(4) Not less than 30 days shall pass from the date of posting the conclusion on the court's notice board to the date of the sale.

(5) The conclusion on sale shall be delivered to the parties, lien creditors, participants in the procedure and persons that have a recorded statutory preemption right and to the relevant tax office.

(1) A person having a statutory preemption right on immovable property that is the object of enforcement through sale shall have precedence over the most favorable bidder, if he declares immediately after conclusion of the sale that he shall purchase the property under identical conditions.

(2) A person having a contractual preemption right shall exercise it in accordance with conditions stated in paragraph (1) of this Article, if there is no statutory preemption right or the holder of such right decided not to exercise it.

### Preemption Right

#### Article 117

#### Preemption Right of an Enforcement Creditor

#### Article 118

(1) Where no statutory or contractual preemption right exists on immovable property, or if holders of such rights have not exercised them, the creditor shall have a preemption right.

(2) An enforcement creditor shall acquire a preemption right on immovable property by recording of the decision on enforcement respecting that property.

(3) If persons who have acquired preemption rights on immovable property before a creditor declares on record before the court that he will abstain from exercising such right, the creditor shall have precedence over the most favorable bidder if he states immediately after the conclusion of the sale that he will purchase the immovable property under identical conditions.

#### Declaration by the Holder of Preemption Right

#### Article 119

If the immovable property is sold through direct agreement, the court shall invite the holder of a statutory preemption right, the holder of a contractual preemption right recorded in the public book, and the enforcement creditor, to declare on the court record whether they will exercise such right.

#### Method of Sale

#### Article 120

(1) Sale of immovable property shall be conducted by public auction.

(2) The hearing for sale of immovable property shall be held in the courthouse, unless

otherwise determined by the court.

(3) The public auction hearing shall be conducted before a single judge.

(4) Parties and lien creditors may agree at any time to conduct a sale of immovable property through direct agreement within a stated time period.

(5) The direct agreement shall be in writing and shall have legal effect from the date on which the court decision on awarding becomes final.

#### Requirements for Sale

##### Article 121

(1) Requirements for sale shall include, but shall not be limited to:

- 1) detailed description of the property and appurtenances thereto;
- 2) designation of third party rights that are not terminated through the sale;
- 3) designation of easements and real encumbrances taken over by the buyer;
- 4) appraised value of the property determined by decision of the court;
- 5) time period for the buyer to deposit the price, which may not exceed 30 days from the date of sale; and
- 6) method of sale, amount of guarantee, time limit for depositing guarantee, and who deposits the guarantee and the form of depositing.

(2) On motion of the enforcement creditor or enforcement debtor, the time, place and conditions of sale shall be published in public media at the cost of the movant.

#### Guarantee Deposit

##### Article 122

(1) Participants in the public auction shall deposit a guarantee in advance.

(2) The guarantee shall amount to 1/10 of the appraised value of the property.

(3) The enforcement creditor who filed the motion to enforce that resulted in the decision on enforcement and the lien creditor shall be exempt from the requirement of depositing a guarantee, if their claims equal the amount of the guarantee and if, due to their order of priority and the appraised value of the property, such amount could be realized from the sale proceeds.

(4) In a direct agreement sale, the buyer shall deposit the guarantee with the person with whom he concluded the contract, immediately before the conclusion of the contract.

(5) Bidders whose bids have not been accepted shall have their guarantees returned immediately after the conclusion of the public auction.

#### Single Bidder

##### Article 123

(1) A sale hearing shall be conducted even if there is only one bidder.

(2) A hearing for the sale of immovable property shall not be held if the enforcement creditor is the only bidder.

(3) The court may, on motion of the parties or the enforcement creditor and considering the circumstances of the case, adjourn the sale hearing if only



one bidder is present.

## Eligibility of Buyers

### Article 124

The enforcement creditor, the judge, court enforcement officials and persons participating in valuation may not be buyers either at public auction or by direct agreement.

### Sale Price

### Article 125

(1) The immovable property may not be sold below the appraised value at the first sale hearing.

(2) If the property could not be sold at the first hearing, the court shall schedule a second hearing at which the property may be sold below appraised value, but not less than two thirds of that value. Not less than 30 days shall pass between the two hearings.

(3) The parties and lien creditors may agree, by statement into the record of the enforcement court that the immovable property may be sold at even a lower price than determined or less than two thirds of that value.

(4) Provisions of this Article shall apply accordingly in cases where immovable property could not be sold through direct agreement at its appraised value or at a subsequent sale hearing.

## Hearing for Sale and Award of Immovable Property

### Article 126

(1) At the sale hearing the court shall announce commencement of bidding once it has determined that conditions for holding of the hearing have been met.

(2) The bidding shall commence by announcement of the starting price. If at least one bidder accepts the announced price, the next price shall be announced which shall be higher by at most five percent than that previous price. This procedure shall be repeated until the last offered price remains unaccepted.

(3) The auction shall be concluded after expiration of ten minutes following the best bid.

(4) Upon the conclusion of the auction, the court shall determine which bidder offered the highest price and shall declare the immovable property awarded to that bidder.

(5) The court shall issue a separate decision on award of immovable property sold through public auction which shall be posted on the court's notice board and delivered to all persons who are recipients of the conclusion on sale, and also all participants in the auction.

(6) The decision on awarding may not be challenged by special appeal but grounds for appeal against such decision may be stated in the appeal against transfer of the immovable property.

(7) Records of the sale hearings shall be kept.

## Award of Immovable Property Sold Through Direct Agreement

#### Article 127

(1) The court shall issue a decision on awarding immovable property sold through direct agreement after it determines that all requirements for valid conclusion of the sale have been met.

(2) The decision on awarding shall be posted on the court's notice board and shall be delivered to all persons that are recipients of the conclusion on sale, and to the buyer.

#### Deposit of Price

#### Article 128

(1) The buyer shall deposit the price within the period determined in the conclusion on sale.

(2) If the buyer is the enforcement creditor whose claim is less than the proceeds of the auction sale, and if due to his priority position he may be satisfied out of the sale proceeds, he shall be required to deposit only the difference between the claim and the actual sale proceeds.

(3) If the highest bidder fails to deposit the sale price within the set period, the court shall declare the sale to such bidder invalid and issue a new decision awarding sale of the real property to the second highest bidder. If the second bidder fails to deposit the price he offered within the set period, the court shall apply these rules to the third bidder accordingly.

(4) If the three highest bidders fail to deposit the sale price within the set period, the court shall declare the sale invalid and schedule a new sale to be held not later than 45 days after the date the decision declaring the sale invalid becomes final.

(5) The deposited guarantee of such bidders shall be used to pay costs of the new sale and to cover possible discrepancies between the sale price achieved at earlier and later sales.

#### Award of Immovable Property to the Buyer

#### Article 129

(1) Upon depositing the sale price in the case of sale by public auction, or upon depositing the price and finality of the decision on awarding property sold through direct agreement, the court shall issue a decision to award immovable property to the buyer and to record his right to the property in the public book upon finality of such decision.

(2) The decision on awarding immovable property shall be delivered to all persons that are recipients of the conclusion on sale.

(3) A separate appeal is allowed from an order to award real property.

#### Loss of the Right to Possess Immovable Property

#### Article 130

Upon the awarding of immovable property, the enforcement debtor shall lose the right to possess such property and shall be obligated to transfer the property to the buyer immediately upon receipt of the decision on awarding the immovable property, unless otherwise provided by law or by agreement with the buyer.

#### Eviction of Enforcement Debtor

#### Article 131

(1) After issuing the decision on awarding immovable property, the court shall on request of the buyer order the enforcement debtor by conclusion to vacate the property and transfer it to the buyer.

(2) Enforcement referred to in paragraph (1) of this Article shall be conducted according to the provisions of this Law regulating enforcement for the purpose of vacating and transferring immovable property.

(3) The buyer shall acquire the status of the enforcement creditor by submitting a motion to enforce for the purpose of vacating and transferring immovable property.

## Eviction of Other Persons

### Article 132

(1) After issuing the decision on awarding immovable property, the court shall on request of the buyer order other persons in the property by conclusion to vacate the property and transfer it to the buyer.

(2) Immediately after issuing such conclusion the court shall enforce the conclusion. Such enforcement shall be conducted according to the provisions of this Law regulating enforcement for the purpose of vacating and transferring immovable property.

## Protection of Buyer's Rights

### Article 133

Remanding or reversing of the decision on enforcement after the finality of the decision on awarding immovable property to the buyer shall not affect his right acquired by the decision on awarding immovable property.

## Satisfaction Through Award of Immovable Property to the Enforcement Creditor

### Article 134

(1) If the immovable property could not be sold at the second auction hearing or by direct agreement within the period set by the court, the court shall on motion of the enforcement creditor award the immovable property to the creditor by decision.

(2) In cases referred to in paragraph (1) of this Article the enforcement creditor shall be considered satisfied in an amount equal to twothirds of the appraised value of the immovable property.

## Termination of Enforcement

### Article 135

(1) If the immovable property could not be sold at the second hearing, and the enforcement creditor did not exercise his rights referred to in Article 118, the court shall schedule subsequent hearings only on motion of the enforcement creditor.

(2) The enforcement creditor may not file a motion for scheduling of a new sale hearing before expiration of three months after the previous hearing or after one year after that date.

(3) The court shall terminate enforcement if the enforcement creditor fails to file a motion within period stated in paragraph (2) of this Article.

(4) If the immovable property could not be sold through direct agreement within the period stated in the agreement between the parties and lien creditors, and the enforcement creditor fails to propose public auction within the period referred to in paragraph (2) of this Article, the court shall terminate enforcement.

## 3. Award of Immovable Property to Enforcement Creditor for Use

### Requirements for Award

#### Article 136

(1) When the requirements are met to terminate enforcement, the court may, on motion of the enforcement creditor, which can be filed within 30 days, issue a decision awarding to him the immovable property for use with compensation.

(2) The decision on awarding immovable property to the enforcement creditor for use may be challenged by the enforcement debtor by appeal.

### Compensation and Time Period

#### Article 137

The court shall, in the decision on awarding immovable property to the enforcement creditor, determine the deadline by which the immovable property will be awarded and the amount of monthly compensation which may be realized, after receiving an opinion of an expert.

### 4. Satisfaction of Enforcement Creditor

#### Time of Satisfaction

#### Article 138

The court shall effect satisfaction after the decision on awarding of immovable property has become final.

#### Persons who are Satisfied and Proportion of Satisfaction

#### Article 139

(1) The following persons shall be satisfied out of the proceeds of the sale: the enforcement creditor who filed the motion for enforcement, lien creditors even if they have not submitted their claims, and persons who have the right to compensation for personal easements.

(2) Any amount of the sale proceeds remaining after satisfaction of persons referred to in paragraph (1) of this Article shall be paid over to the enforcement debtor, if there is nothing to prevent this.

(3) If the proceeds of the sale are not sufficient for full satisfaction, multiple claims in the same priority shall be satisfied in proportion to their respective amounts.

#### Priority of Satisfaction

#### Article 140

The proceeds of the sale shall be used for satisfaction in the following order of priority:

- 1) costs of the enforcement procedure; and
- 2) claims based on statutory maintenance, if proven by executive title and if reported no later than the time of the sale hearing.

#### Order of Satisfaction of Other Claims

#### Article 141

(1) Upon satisfaction of claims referred to in Article 140 of this Law, the following shall be satisfied: 1) taxes and other dues levied against immovable property for the preceding year;

2) claims based on tort for health impairment or diminishment or loss of working ability and loss of maintenance caused by death of the maintenance provider; claims based on employment relations of the employee with an entrepreneur or other natural person engaged in business activity; and claims of social insurance contributions that are due, regardless of whether such claims are secured by a lien against the sold immovable property;

3) claims secured by lien; 4) claims for settlement of personal easements and real encumbrances that are terminated through sale, if established prior to initiation of the enforcement procedure; and 5) claims of enforcement creditors who filed a motion for enforcement procedure.

(2) Lien creditors shall be satisfied pursuant to the order of acquiring their lien rights, and creditors for settlement of personal easements and real encumbrances shall be satisfied according to their order of recordation in the public book.

(3) Costs and interest rates for the preceding three years before issuing of the decision on awarding of immovable property to the buyer, designated by executive title, shall be satisfied in the same order as the main claims.

(4) Claims referred to in paragraphs (1) 1), 2), 3) and 5) of this Article shall be satisfied if reported not later than the sale hearing and if executive title is submitted as proof.

#### Satisfaction Amount for Personal Easements and Real Encumbrances

##### Article 142

(1) If agreement is not reached on the satisfaction amount for personal easements or real encumbrances that are terminated by sale between holders of such rights and creditors coming after them in satisfaction priority, the satisfaction amount shall be determined by the court taking particularly into account the period for which the easement or encumbrance would have continued to exist, the value thereof and the age of the holders of such rights.

(2) The buyer and the holder of a personal easement or real encumbrance may agree that the buyer will take over the easement or real encumbrance, and that the satisfaction amount determined in accordance with paragraph (1) of this Article shall be deducted from the sale price.

#### Contesting of Claims

##### Article 143

(1) An enforcement creditor or other person satisfied out of the sale price may, if the amount he receives is affected, contest the existence, amount or priority of other claims except for claims determined by executive title.

(2) Such contesting may be done, at the latest, at the hearing on distribution.

##### Instruction to Initiate Litigation

##### Article 144

(1) The court shall instruct a person contesting a claim to initiate litigation within a deadline that may not exceed 15 days if the decision depends on contested facts, unless such person proves his case by final judgment, official document or legally attested private document. If the person contesting a claim supports his case by final judgment, official document or legally attested private document, the court shall rule on the contest in the enforcement procedure.

(2) If the person contesting the claim establishes probable grounds for his case, the court shall issue a conclusion instructing the person whose claim is contested to initiate litigation, and shall defer ruling on satisfaction of the person whose claim is contested until conclusion of the litigation. Exceptionally, the court may condition the issuing of a decision on satisfaction or satisfaction of such person on the deposit of security.

(3) The contested amount shall be deposited with the court.

(4) If a person instructed to initiate litigation within a set time period fails to prove that litigation was initiated within such time period, the claim shall be considered noncontested.

(5) A judgment in litigation on the contested claim shall be valid against the enforcement debtor and all other enforcement creditors.

(6) The provision of paragraph (4) of this Article shall not prejudice the right of the person instructed to initiate litigation to take action against the person whose claim is contested or persons who are contesting his claim, once the enforcement procedure has ended.

(7) On motion of the person whose claim is contested, the court may condition the decision on satisfaction and satisfaction of the claim on deposit of security to cover damages that such person may sustain due to deferment of satisfaction. If the person contesting the claim does not provide adequate security within the set time period, the claim shall be considered non-contested. The person whose claim has been contested is entitled to compensation for damages sustained due to malicious intent of the contesting or if the contesting was for the purpose of prejudicing exercise of his rights.

## 5. Specific Provisions for Satisfaction of Particular Claims

### Unmatured Claim

#### Article 145

(1) A claim of a lien enforcement creditor that has not matured by the date of issuing of the decision on satisfaction, and for which interest has not been agreed, shall be satisfied upon deduction of an amount equivalent to the default interest rate from the date of issuing the decision on settlement to the date of maturity of the claim.

(2) An unmatured claim for which interest has been agreed shall be paid together with the amount of agreed interest calculated until the date of issuing of the decision on satisfaction.

### Unmatured Claim for Periodic Income

#### Article 146

(1) A claim for periodic income deriving from damage compensation for health impairment or decrease or loss of working capabilities and loss of maintenance after the death of the maintenance provider that is secured by lien, and which matures after the date of issuing of the decision on satisfaction, shall be satisfied at the express request of the creditor.

(2) Claims referred to in paragraph (1) of this Article shall be calculated pursuant to the method of calculating compensation for personal easements and real encumbrances.

### Conditional Claim

#### Article 147

(1) The amount of a claim that has been secured through lien and that is subject to conditions shall be set aside and deposited with the court and satisfied when the condition is met or when it becomes evident that the rescission requirement shall not occur.

(2) If the condition does not occur or the rescission requirement occurs, the amount set aside shall be used to satisfy enforcement creditors whose claims have not been satisfied in full or satisfied at all, and if no such enforcement creditors remain, or if the entire amount was not exhausted by satisfaction, such amount or remaining portion residue thereof shall be paid over to the enforcement debtor.

### Prerecording of Lien and Recording of Initiation of Procedure

#### Article 148

(1) When prerecording of a lien has been recorded in the public book, and the person in whose favor prerecording has been made proves that a procedure for justifying the prerecording has been initiated or that the time period for initiating such procedure has not expired, the claim that has been prerecorded shall be satisfied in the manner for satisfaction of claims which are subject to conditions.

(2) A claim recorded in the public book for initiation of a procedure seeking deletion of a lien or prerecording of initiation of a procedure shall be satisfied in the manner for satisfaction of claims which are subject to rescission requirement.

## 7. Distribution Hearing, Decision on Satisfaction and Deletion of Rights and Encumbrances

### Distribution Hearing

#### Article 149

(1) After a decision on awarding immovable property to a buyer becomes final, the court shall schedule a hearing to distribute the proceeds of the sale.

(2) Parties, and persons who according to the documents in the case public book data

are entitled to be satisfied from the amount received from the sale, shall be invited to the distribution hearing. The invitation shall contain a notice that claims of creditors who fail to appear at the hearing shall be taken from the facts appearing in the documents or the public book, and that they may contest another person's claim, or its amount or order of priority, at the latest at the distribution hearing.

(3) Satisfaction of creditors and other persons filing a motion for satisfaction shall be considered at the hearing.

#### Decision on Satisfaction

##### Article 150

(1) The court shall decide on satisfaction of creditors and other persons claiming the right to satisfaction, by decision following the hearing, considering the facts shown in the case documents, in the public book and at the hearing.

(2) In making the decision referred to in paragraph (1) of this Article, the court shall take into account only those claims for which a decision on enforcement became final on or before the date of the distribution hearing.

(3) If there are claims for which a decision on enforcement order has not become final by the date of the distribution hearing, such claims shall be satisfied when the relevant decisions on enforcement become final out of any remaining amount of the sale price, and any remaining amount after that shall be paid over to the enforcement debtor.

(4) The decision on satisfaction may be appealed.

#### Deleting of Rights and Encumbrances

##### Article 151

After a decision on satisfaction becomes final, the court shall by decision order deletion of recorded rights and encumbrances from the public book, except for such as remain against the immovable property after it has been awarded to the buyer or that the buyer has agreed to take over.

## 7. Specific Rules for Enforcement Against Immovable Property Not Recorded in Public Book

### Enforcement Against Immovable Property in Areas With No Cadastre or Land Book

##### Article 152

(1) In areas where there is neither a cadastre nor land book, or there is no register established by law of immovable property rights, the court shall accordingly apply legal rules which apply to the documents which are attached to the motion to enforce as proof of ownership of the property that is the object of enforcement, and other legal rules governing methods of registration of the decision on enforcement against immovable property.

(2) If it is impossible for any reason to acquire proof of ownership in accordance with legal rules applicable in that area, the enforcement creditor shall be required to show in the motion to enforce, instead of proof of ownership, the location of the property, its designation, its borders and its square area.

(3) In cases referred to in paragraph (2) of this Article the court shall carry out an inventory of the property against which enforcement is sought and shall invite to the inventory hearing the enforcement creditor, the enforcement debtor and persons whose property borders the subject property.

(4) The inventory record shall have the legal effect of recording of enforcement and shall be posted on the notice board of the court.

### Enforcement Against Immovable Property not Recorded in the Public Book

## Article 153

(1) If, in an area which has a cadastre, land book or other register of immovable property established by law, the property which is the object of enforcement is not recorded, the enforcement creditor shall attach documents sufficient for recording to his motion to enforce.

(2) Upon receiving the motion to enforce and such documents, the court shall promptly deliver the documents for recording to the court, organ or organizations in charge of the register, and shall suspend the enforcement procedure until recording is completed.

(3) When an enforcement creditor in his motion to enforce proposes as an object of enforcement a building or a part of the building not recorded in the immovable property register, and declares that recording as stated in paragraphs (1) and (2) of this Article cannot be effected, the court shall by decision allow enforcement against nonregistered immovable property of the enforcement debtor, if the enforcement creditor submits or designates, as proof of ownership of nonregistered immovable property, a building permit in the name of the enforcement debtor or, if the building permit is not in the name of the enforcement debtor, submits documents of legal transactions leading to the enforcement debtor's acquisition of the property.

(4) The court shall, on motion of the enforcement creditor, order the enforcement debtor or third party to submit documents referred to in paragraph (3) of this Article, subject to fines referred to in Article 45 of this Law.

(5) The court shall, on motion of the enforcement creditor, order the competent authority to deliver documents referred to in paragraph (3) of this Article.

(6) When the court allows enforcement against immovable property that cannot be registered as referred to in paragraph (3) of this Article, the conditions of sale of the property shall specifically state that the property is not registered and that an inventory in accordance with Article 152 paragraphs (3) and (4) of this Law shall be conducted instead of recordation.

## Chapter Three

### ENFORCEMENT AGAINST CLAIMS OF AN ENFORCEMENT DEBTOR

#### 1. General Provisions

##### Territorial Jurisdiction

#### Article 154

(1) The court in whose territory the enforcement debtor is domiciled shall have territorial jurisdiction to decide on a motion to enforce against a monetary claim of the debtor if jurisdiction cannot be determined by application of Article 3, paragraph

(2) of this Law, and if the enforcement debtor does not have domicile in the Republic of Serbia, the court in whose territory the debtor's debtor is domiciled shall have jurisdiction, and if that person does not have domicile in the Republic of Serbia, the court in whose territory the debtor's debtor has temporary residence shall have territorial jurisdiction.

(2) Jurisdiction to decide on a motion to enforce against a debtor's claim for handover of an object and for carrying out of that enforcement shall be in the court of the territory in which the object is located.

(3) The provisions of paragraph (1) of this Article referring to domicile shall be applied accordingly to the registered office of a legal entity.

##### Exemption from Enforcement

#### Article 155

The following shall be exempted from enforcement:

- 1) statutory maintenance income, compensation for damages for health impairment or loss or diminished working capacity and for lost maintenance due to death of maintenance provider;
- 2) earnings for corporal disability in accordance with provisions on disability insurance;
- 3) welfare earnings;



- 4) temporary unemployment benefits;
- 5) child allowance;
- 6) scholarships and grants for pupils and students;
- 7) earnings of soldiers and military school cadets;
- 8) remuneration for work of convicts in correctional facilities, except for claims of statutory maintenance, as well as claims for damages caused by the criminal act of the convicted person; and
- 9) other earnings whose transfer is prohibited by law or are related to the personality of the creditor,

#### Limitation of Enforcement

##### Article 156

(1) Enforcement against salaries and pensions, or against compensation in lieu of salary, may be conducted up to the amount of guaranteed minimal wage, pension or compensation in lieu of salary.

(2) If enforcement is conducted against the minimum salary, the object of enforcement may be up to onehalf of the salary.

(3) The provisions of paragraph (1) of this Article apply to salaries of officers, non commissioned officers, military clerks and members of the reserve military corps during military service.

(4) Enforcement against earnings of wartime and peacetime disabled military personnel based on remuneration for disability, prosthetic benefits and disability benefits may be effected only pursuant to statutory maintenance, damages for health impairment or loss or decrease of working capacity and for lost maintenance due to death of maintenance provider, up to one half of such earning.

(5) Enforcement against earnings based on compensation for damages in the form of annuity awarded in accordance with rules of the law on torts and contracts, contract on lifetime support, and earnings deriving from a life insurance contract, may be conducted only on the amount exceeding the highest amount of permanent social security benefits that is paid out in the territory where the debtor has his domicile.

#### Limitation of Enforcement of Claims for Handover of Object

##### Article 157

If an enforcement debtor's claim is for handover of an object, enforcement is possible to the extent it may be carried out if the object were in possession of the debtor and rules on enforcement for satisfaction of monetary claim against movable property were applicable.

#### Enforcement Actions

##### Article 158

(1) Enforcement against a claim shall be conducted through attachment of the claim and its transfer for or instead of payment, unless provided otherwise in this Law.

(2) The motion to enforce may request only attachment of a claim, but in such case the enforcement creditor is obligated to file, within 30 days after the date of delivery of the attachment order or the date on which notice of the statement of the debtor's debtor has been delivered, a motion for payment of the claim or the transfer.

(3) If the creditor fails to file such motion within such time period, enforcement shall be terminated.

## 2. Attachment of Claim

#### Prohibition of Satisfaction and Disposition

##### Article 159

With the decision of enforcement against a debtor's claim, the court shall prohibit the debtor's debtor from settling that claim with the debtor and prohibit the debtor from collecting such claim or disposing of it to a third party or to the debtor's debtor (attachment of the claim).

Fine

#### Article 160

For failure to comply with the prohibition referred to in Article 159 of this Law, the Court shall impose a fine referred to in Article 45.

Lien

#### Article 161

(1) The enforcement creditor shall acquire a lien on the claim by delivery of the attachment order to the enforcement debtor.

(2) The lien on the claim shall include interest payable on the attached claim.

Ancillary Rights

#### Article 162

(1) If the attached claim has been secured through lien or mortgage, the enforcement creditor shall acquire through the attachment the status of sublien or supramortgage creditor.

(2) Attachment or acquisition of a lien against claim that has been secured through pledge or mortgage shall be recorded in the relevant register where the lien or mortgage has been recorded.

(3) The enforcement debtor shall hand over the object of the pledge to the creditor, if the pledger agrees to that.

(4) In cases referred to in paragraph (3) of this Article, if the enforcement debtor refuses to hand over the object of the pledge to the creditor, transfer of possession shall be effected in accordance with the provisions of this Law governing handing over of chattels.

(5) A surety of an attached claim shall remain as a guarantor of the attached claim which is secured by such surety.

Duties of an Enforcement Creditor

#### Article 163

(1) A creditor in whose favor a claim is attached is obligated to undertake all legal and factual actions necessary for preserving the claim and ancillary rights.

(2) The creditor shall have a duty to the debtor of due diligence in performance of these actions.

Attachment in Favor of More Than One Enforcement Creditor

#### Article 164

(1) If more than one creditor moves for enforcement against a single claim of the debtor, the order of priority of liens shall be established on the basis of the date of receipt of the motions by the court.

(2) If the court receives more than one motion on the same date, the liens shall have the same order of priority and the satisfaction of creditors shall be effected pro rata if they cannot all be satisfied in full from the claim.

Declaration of Enforcement Debtor's Debtor

#### Article 165

(1) The court shall, on motion of the enforcement creditor, request the enforcement

debtor's debtor to declare within a time period set by the court whether and to what extent he recognizes the attached claim and whether he is willing to satisfy the claim, as well as whether his obligation to satisfy the claim is conditioned on performance of some other obligation.

(2) A motion for declaration of a debtor's debtor may be filed by the enforcement creditor together with the motion to enforce, or may be filed in a separate submission after that motion, but not later than commencement of satisfaction.

(3) A declaration by an enforcement debtor's debtor shall be delivered to the enforcement creditor without delay.

### 3. Transfer of and Satisfaction from the Enforcement Debtor's Monetary Claim

#### 3.1 General Provisions

##### Decision on Transfer

###### Article 166

(1) The court shall, on motion of the enforcement creditor, issue a decision on transfer of the claim to the enforcement creditor.

(2) If prior to such motion a decision on attachment has been issued on the motion of the enforcement creditor, the decision on transfer may be issued only after the decision on attachment has become final.

(3) If the enforcement creditor has moved to have the enforcement debtor's debtor declare on the claim, the court shall issue a decision on the motion to transfer within three days after the date on which notice of the debtor's debtor's declaration has been delivered to the enforcement creditor.

##### Special Conditions for Transfer of Claim Partially Exempted from Enforcement and from Attachment

###### Article 167

A claim that is partially exempted from enforcement or is already attached in favor of other persons, shall be transferred upon the creditor's deposit of a guarantee that he will transfer the exempted part of the claim to the court.

##### Special Conditions for Transfer of Divisible Claim

###### Article 168

(1) Transfer of a monetary claim may be ordered and carried out only for the amount necessary to satisfy the creditor's claim.

(2) If several creditors request enforcement against the same claim and it is divisible, transfer shall be ordered in the corresponding amounts, for each creditor separately.

##### Carrying out of Transfer

###### Article 169

The transfer shall be deemed carried out upon delivery of the transfer order to the enforcement debtor's debtor.

##### Obligations of the Enforcement Debtor and Enforcement Creditor

###### Article 170

(1) The enforcement debtor shall within a time period set by the court, and on motion of the enforcement creditor to whom the claim was transferred, provide information required by the

creditor for the purpose of collecting the claim and shall hand over documents related to the claim.

(2) An enforcement creditor to whom part of a claim has been transferred is obligated, at the debtor's request, to deposit a guarantee within a time period set by the court covering the return of documents related to the claim after the claim has been satisfied.

(3) The court shall, on motion of the enforcement creditor, conduct enforcement against the debtor for handover of documents, if the debtor fails to hand them over himself.

(4) The creditor may file an action to require handover of documents kept by third parties, if the debtor would be entitled to the same right.

(5) The court shall record a notice on a document handed over to the creditor stating that the transfer of the claim whose enforcement has been ordered has been carried out.

#### Deposit of Claim with the Court

##### Article 171

(1) When in respect of a transferred claim other persons beside the enforcement creditor assert rights, the enforcement debtor's debtor may deposit the whole amount of the claim or only the matured part of the claim with the court for the benefit of such persons.

(2) An enforcement creditor to whom a claim was transferred, in respect of which other persons asserted rights, may through the court invite the enforcement debtor's debtor to deposit the amount of the transferred claim with the court.

#### Type of Transfer

##### Article 172

An attached claim shall be transferred to the enforcement creditor on his motion for payment.

### 3.2 Transfer for Collection

#### Enforcement Creditor's Authority

##### Article 173

(1) Transfer of the claim for collection authorizes the enforcement creditor to request from the enforcement debtor's debtor payment of the amount designated in the decision on transfer, if such amount has matured; to undertake all actions necessary for protection and realization of the transferred claim; to exercise rights related to any lien given as security for the claim; and to approach the enforcement debtor's debtor's guarantor in accordance with the terms of the guarantee.

(2) Transfer of the claim for collection shall not authorize the creditor to settle the claim with the debtor's debtor, to release him from the claim, to dispose of the claim, or to agree with the debtor's debtor to have the validity of a contested claim decided by arbitration.

(3) An enforcement debtor's debtor may make objections against a creditor to whom the claim has been transferred that he would have been entitled to make against the debtor.

(4) After the transfer, any action regarding the transferred claim by the enforcement debtor shall not have legal effect on the rights of the creditor which were acquired by the transfer.

#### Transfer for Satisfaction of Claim Recorded in the Public Book

##### Article 174

Transfer for satisfaction of a claim recorded in the public book shall be recorded ex officio.

Dependence of Obligation of the Enforcement Debtor's Debtor on Handover of Object

##### Article 175

(1) If the obligation of an enforcement debtor's debtor to satisfy the claim is conditioned on the enforcement debtor's obligation to hand over a certain object that is in the debtor's

possession, and such obligation is confirmed by final judgment, the court shall, on the motion of the creditor to whom the claim has been transferred, order the debtor to hand over such object to the court for handover to enforcement debtor's debtor.

(2) The court shall on motion of the creditor carry out enforcement of handover of the object against a debtor who has not handed it over within the required time period.

#### Notifying the Enforcement Debtor of Motion for Collection of Transferred Claim

##### Article 176

A creditor who has filed a motion for collection of a transferred claim shall promptly notify the debtor of the motion, and shall be liable to the debtor for any damages caused by failure to do so.

#### Delinquency in Collection of Transferred Claim

##### Article 177

(1) A creditor who does not take appropriate care regarding collection of a transferred claim shall be liable for damages caused thereby to the debtor or to another creditor whose claim represented a basis for attachment of the debtor's claim.

(2) In such a case the court may, on motion of another creditor, repeal the order transferring the claim to the delinquent creditor and transfer the claim to another creditor.

#### Satisfaction of Enforcement Creditor

##### Article 178

A creditor to whom a claim has been transferred for collection shall be deemed satisfied to the extent of the amount he has collected.

#### Collection of Amount Exceeding Creditor's Claim

##### Article 179

(1) A creditor who has collected on a transferred claim in an amount in excess of the claim is obligated to deposit the surplus with the court.

(2) The court shall distribute that surplus to other lien creditors and to the enforcement debtor, if they are entitled to it.

(3) The court shall return any deposited guarantee to the creditor who has deposited such surplus.

#### Transfer in Lieu of Payment

##### Article 180

(1) An attached claim shall be transferred to the enforcement creditor in lieu of payment to the enforcement creditor up to the amount of the claim transferred, and shall have the effect of ceding the claim for compensation.

(2) If the transferred claim has been secured by a lien recorded in the public book, the court shall ex officio transfer the debtor's rights to the enforcement creditor, and shall delete the lien right recorded in favor of the enforcement debtor.

(3) A creditor to whom a claim has been transferred in lieu of payment shall be deemed satisfied by the fact of the transfer, in the amount of the claim.

(4) The provisions of paragraph (3) of this Article shall not adversely affect any liability of the debtor for misrepresentation regarding the transferred claim or its collectability.

#### 4. Specific Provisions on Enforcement Against Wages and Other Permanent Monetary Income

## Application of Provisions

### Article 181

The provisions of this Chapter shall apply to enforcement against wages, unless provided otherwise by this Law.

## Decision on Enforcement

### Article 182

(1) A decision on enforcement against wages shall provide for attachment on a specified part of the wages and shall direct the government body, legal entity or other employer paying wages to the enforcement debtor, to pay or continue paying to the enforcement creditor the amount stated in the decision.

(2) For purposes of this Law, wages shall include all workrelated earnings of an employee.

## Wage Increase

### Article 183

A decision on enforcement against wages shall also apply to a wage increase occurring after delivery of the decision.

## Where More than One Person has Maintenance Right

### Article 184

(1) If enforcement against wages is conducted for the purpose of satisfaction of statutory maintenance right, or a right to annuity for lost maintenance due to death of a maintenance provider, and where several persons have such right against the debtor, and the total amount of their claims exceeds the portion of the salary that may be the object of enforcement, enforcement shall be ordered and conducted in favor of every such enforcement creditor pro rata to their respective claims.

(2) If another motion to enforce claims referred to in paragraph (1) of this Article is filed after commencement of a thenongoing action against wages, the court shall amend the previous decision on enforcement as referred to in paragraph (1) of this Article and shall determine the amount to be paid in future to individual creditors.

(3) In cases referred to in paragraph (2) of this Article, the decision on enforcement shall also be delivered to the initial creditor who may file an appeal against such decision.

## Place of Payment

### Article 185

(1) A claim for a noncash payment shall be collected by the creditor directly at the cashier's counter at which the debtor's salary is paid.

(2) A creditor is entitled to request payment of the withheld amount by post mailed to a designated address after deduction of postal costs.

## Change of Employer

### Article 186

(1) If a debtor's employment with one employer has ceased, the decision on enforcement against wages shall be delivered to the new employer where the debtor has entered into employment, with effect as of the date on which the decision on enforcement is delivered to such employer.

(2) The former employer shall promptly and by registered mail deliver the decision on enforcement to the new employer and shall inform the court accordingly.

(3) The former employer shall promptly notify the court if he is unaware of the debtor's

new employer and the court shall accordingly notify the creditor, setting a time limit for notifying the court in respect of the debtor's new employer.

(4) The court shall invite the enforcement debtor to state the name of his employer under threat of fine as referred to Article 45 of this Law if he does not do so, and appeal of or objection to the decision shall not suspend enforcement.

#### Liability for Failure to Withhold and Pay Matured Installments

##### Article 187

(1) A creditor may file a motion requesting the court to require the employer to pay all pastdue installments to the creditor pursuant to the decision on enforcement.

(2) An enforcement creditor may file the motion referred to in paragraph (1) of this Article until the end of the enforcement procedure.

(3) The decision sustaining the creditor's motion shall have the effect of a decision on enforcement.

(4) An employer failing to comply with the decision on enforcement or failing to act in accordance with paragraphs (2) and (3) of Article 186 of this Law shall be liable for damages caused to the creditor.

#### Enforcement With Consent of the Enforcement Debtor

##### Article 188

(1) Enforcement against a debtor's salary with his consent (administrative enforcement) shall have the legal effect of a decision on enforcement against wages, if imposed prior to issuing of a decision on enforcement.

(2) As an exception to paragraph (1) of this Article, administrative enforcement shall have no effect on conducting enforcement against wages for satisfying claims based on statutory maintenance, compensation of damages for health impairment or loss or decrease of working ability or for lost maintenance due to death of maintenance provider.

#### Social Security Earnings

##### Article 189

Provisions of this Law relating to enforcement against wages shall apply accordingly to enforcement against earnings deriving from social security.

### 5. Enforcement Against Savings Deposit and Current Account

#### Enforcement Against Savings Deposit

##### Article 190

(1) Enforcement against a savings deposit shall be conducted through attachment and payment.

(2) The enforcement creditor who proposes enforcement against a savings deposit shall be obligated to list information on the savings deposit and the number and name of the bank or other financial organization where debtor has a savings deposit.

(3) If the enforcement creditor fails to provide the necessary data on the debtor's savings deposit, the court shall request such data from the organization where the deposit is kept, which the creditor was obligated to name in his motion.

(4) The organization shall promptly provide the court with the requested data and may not inform the debtor that such information has been requested.

(5) Attachment shall be carried out by delivery of the decision on attachment to the organization where the savings deposit is kept.

(6) The court shall deliver the decision on attachment to the debtor only after the organization where his savings deposit is kept notifies the court that attachment has been carried

out.

(7) Satisfaction of the creditor shall be conducted in accordance with provisions on satisfaction from a debtor's monetary claim.

#### Enforcement Against Assets of Enforcement Debtor's Current Account

##### Article 191

Provisions on enforcement against a debtor's savings deposit shall apply accordingly to enforcement against a debtor's current account.

### 6. Enforcement Against Securities

#### 6.1 Enforcement Against Securities Recorded in the Public Registry

##### Enforcement Actions

##### Article 192

(1) Enforcement against rights deriving from securities that are recorded in a registry in accordance with other law shall be conducted through attachment, valuation, sale and satisfaction.

(2) Issuing of the decision on enforcement against securities shall constitute attachment of the security that is the object of enforcement.

(3) The decision on enforcement shall be delivered to the enforcement creditor, the enforcement debtor and the Central Registry of Securities.

(4) At the moment of attachment, the enforcement creditor shall acquire a lien over the attached securities.

(5) The Central Registry of Securities shall, upon receiving the decision on attachment, or at the request of the enforcement creditor, register a lien on the securities without delay. From the moment of recordation third parties cannot claim ignorance of the enforcement creditor's lien.

(6) The enforcement debtor, from the moment of attachment, may not dispose of the attached security.

(7) Valuation and sale of the securities and satisfaction of creditors shall be conducted in accordance with the provisions of this Law governing enforcement against shares.

#### 6.2 Enforcement Against Other Securities

##### Enforcement Actions

##### Article 193

Enforcement against other securities shall be carried out through attachment of rights contained in the securities and transfer of those rights.

##### Attachment of the Claim

##### Article 194

(1) Attachment of a claim based on securities transferred by endorsement, or when realizing of the claim requires such securities, shall be carried out by seizure of such securities by a court official and delivery thereof to the court.

(2) Legal actions necessary for retaining or exercising rights deriving from securities referred to in paragraph (1) of this Article shall be carried out by a court official on behalf of the debtor pursuant to conclusion of the court.

##### Transfer

##### Article 195



(1) Transfer of a claim based on securities that are transferred by endorsement, or require submission of the securities in order to exercise such claim, shall be considered carried out at the time the court affixes a statement of transfer on that security and the security, with the statement affixed, is delivered to the creditor.

(2) A claim based on a security that is transferred by endorsement, or requires submission of the security in order to exercise such claim, or which for other reasons may not be divided to effect transfer or payment, may be transferred only its full amount.

(3) If such amount exceeds the creditor's claim, the attached claim shall be transferred upon the creditor's deposit of a guarantee for transfer of the surplus to the court.

(4) If several creditors have filed motions for transfer on different dates, the court shall transfer the claim to the creditor who has first filed the motion, and if several creditors have filed motions on the same date, the claim shall be transferred to the creditor whose claim is the highest.

(5) Provisions of this Law concerning transfer for collection and transfer in lieu of payment shall apply accordingly to transfer of claims from securities.

## 7. Enforcement Against Debtor's Business Account Territorial Jurisdiction

### Article 196

Jurisdiction to decide on a motion to enforce and to conduct enforcement against financial assets kept in accounts of the debtor shall lie with the court in whose territory the seat of the bank or other financial institution is located, or the court in whose territory the organizational part of the bank or financial institution where the debtor's account is kept is located.

### Scope of Enforcement Against Legal Entity and Entrepreneur

#### Article 197

Enforcement for satisfaction of a monetary claim against a legal entity or entrepreneur may be conducted against all financial assets in their accounts with banks and other financial institutions, and against the dinar equivalent of the foreign currency they keep at foreign currency accounts with banks.

### Decision on Enforcement

#### Article 198

The enforcement order against financial assets in a debtor's accounts with banks or other financial institutions shall order such banks or other financial institutions to transfer the amount designated for enforcement from the account of the debtor to the account of the creditor, and for claims where payment by transfer from accounts is not stipulated, to pay that amount to the creditor in cash.

### Conducting the Enforcement

#### Article 199

(1) The court shall deliver the decision on enforcement to the organization for enforced collection which shall immediately instruct the banks or other financial institutions which have the accounts of the enforcement debtor to stop all payouts from all accounts of the debtor until final satisfaction of the claims.

(2) The organization for enforced collection shall inform other banks and financial institutions that they may not open new accounts for that debtor and at the same time shall instruct those banks and financial institutions to promptly deliver information on balances in the accounts of the debtor.

(3) Upon receiving data referred to in paragraph (3) of this Article, the organization for enforced collection shall instruct the banks or other financial institutions to transfer the assets to the account of the creditor or to pay out in cash.

### Order of Collection

## Article 200

(1) The organization for enforced collection is obligated to act following the order of time of receipt of the decision on enforcement unless other legislation provides for priority enforcement of orders of particular creditors or for particular claims.

(2) The bank or other financial institution is obligated to carry out transfer of assets from the account of the debtor on the same day on which it receives the instruction from the organization for coercive collection.

## Periodic Payments

### Article 201

(1) If the enforcement order instructs a debtor to make periodic payments that are due in different time periods (pecuniary annuity for health impairment or loss or decrease of working ability or for loss of life of maintenance provider, etc.), the organization for enforced collection shall instruct the bank or other financial institution to make such payments on their becoming due without further instructions.

(2) In a case referred to in paragraph (1) of this Article, the order of priority of future installments shall be calculated according to the time of receipt of the decision on enforcement.

(3) The organization for enforced collection and the bank or other financial institution shall keep a special record of decisions on enforcement for future periodic payments.

(4) If there are no assets in a debtor's accounts at the time when payments referred to in paragraph

(1) of this Article are due, the provisions of Article 199 (5) shall accordingly apply.

## Suspending Enforcement

### Article 202

On motion of a creditor who submits evidence of declaration before a court on abandoning further enforcement, the organization for enforced collection shall instruct the bank to suspend enforcement until the court issues a decision on discontinuing of the procedure.

## Enforcement Against a Joint Debtor

### Article 203

(1) The court shall issue one enforcement order against two or more debtors that are jointly and severally liable on the same executive title, if included in the same motion to enforce.

(2) If accounts of debtors that are jointly and severally liable are kept with different banks or other financial institutions, the court shall deliver the enforcement order to the organization for enforced collection which shall deliver instruction for cancellation of payouts and instruction for providing data on accounts balance to all banks or other financial institutions where accounts of the jointly and severally liable debtors are kept.

## Transfer from Foreign Currency Account

### Article 204

(1) If there are no financial assets in the debtor's accounts with banks or other financial institutions, the organization for enforced collection shall instruct banks that keep foreign currency accounts of the debtor to transfer assets from those accounts, at the exchange rate on the date of the transfer to debtor's account.

(2) The bank shall act on instructions of the organization for enforced collection on the same day it receives instructions, and if there are no assets in the foreign currency account, the bank shall act in accordance with instructions at the time when assets are paid into the foreign currency account, unless it is notified by the organization for enforced collection that there is no further need for transfers from the foreign currency account.

(3) The bank may not act on a debtor's instructions regarding disposal of assets on

foreign currency accounts until instruction of the organization for enforced collection are carried out, or until it receives notice from the organization for enforced collection information in terms of paragraph (2) of this Article.

## PART FOUR ENFORCEMENT OF NONMONETARY CLAIMS

### Chapter One

#### HANDOVER OF CHATTELS

##### 1. Jurisdiction

###### Territorial Jurisdiction

###### Article 205

The court in whose territory objects are located shall have territorial jurisdiction to decide on a motion to enforce by handover of one or more of such objects or by delivery of a specified number of replaceable objects, and to conduct the enforcement.

##### 2. Handover of Individually Identified Objects

###### When the Objects are in Possession of the Enforcement Debtor or a Third Party

###### Article 206

(1) Enforcement by handover of one or more individually identified objects that are in possession of the enforcement debtor shall be conducted by the court official seizing such objects from the

enforcement debtor and delivering them under receipt to the enforcement creditor.

(2) Enforcement shall also be conducted pursuant to the provisions of paragraph (1) of this Article when the objects are in possession of a third party who is willing to hand them over to the court official.

(3) If the third party is unwilling to hand over the objects, the enforcement creditor may request the court to transfer to him the enforcement debtor's claim against the third party for handover of the objects.

(4) Provisions of this Law governing enforcement by handover or delivery of chattels shall apply accordingly to the procedure on a request referred to in paragraph (3) of this Article.

###### When Individually Identified Objects are not in Possession of the Enforcement Debtor or a Third Party

###### Article 207

(1) If objects are not found in possession of the enforcement debtor or third party, the court shall on motion of the enforcement creditor for payment of the value of such object by the enforcement debtor, appraise the value of the object, and by decision order the enforcement debtor to pay the value of such object within a set time period, and order enforcement for collection of the appraised value with statutory default interest on such amount from the date of appraisal until payment.

(2) The enforcement creditor may file a motion referred to in paragraph (1) of this Article within eight days from the date of notification that the objects have not been found.

(3) The enforcement creditor is obligated, in the motion specified in paragraph (1) of this Article, to define the means of enforcement to effect satisfaction from the value of the appraised object.

(4) Enforcement of the decision referred to in paragraph (1) of this Article shall be carried

out upon such decision becoming final.

(5) If the enforcement creditor does not file a motion within a stated required period for the enforcement debtor to pay the value of the object, the court shall terminate enforcement.

### 3. Handover of Replaceable Objects

When the Objects are in the Possession of the Enforcement Debtor or a Third Party

#### Article 208

If the executive title calls for delivery of a certain quantity of replaceable objects that are in the possession of the enforcement debtor or a third party, enforcement shall be carried out in accordance with provisions of this Law on handover of individually identified objects.

When the Objects are not in the Possession of the Enforcement Debtor or a Third Party

#### Article 209

(1) If the objects are not found in the possession of the enforcement debtor or a third party, the enforcement creditor may move to conduct enforcement with the court authorizing him to obtain such objects elsewhere within a set period of time and at the expense of the enforcement debtor.

(2) The motion for obtaining of objects elsewhere may be filed by the enforcement creditor within eight days from the date the court notifies him that objects have not been found.

(3) The court shall on motion of the enforcement creditor order by decision the enforcement debtor to deposit with the court within a set period of time the amount required for purchase of the objects, and shall order enforcement for collection of such amount including default interest from the date of appraisal of the object to the date of deposit of the amount with the court.

(4) The enforcement creditor shall specify in the motion referred to in paragraph (1) of this Article the means of enforcement for collection of the amount required for purchase of the objects.

(5) Enforcement of the order specified in paragraphs (1) and (3) of this Article shall be carried out upon the order becoming final.

(6) If the enforcement creditor fails to file a motion within the time period referred to in paragraph (2) of this Article to purchase objects elsewhere, the court shall terminate enforcement unless the enforcement creditor files in due time a motion for the enforcement debtor to pay the value of the object he was obligated to hand over.

## Chapter Two

### VACATING AND HANDOVER OF IMMOVABLE PROPERTY

#### Territorial Jurisdiction

#### Article 210

The court in whose territory the immovable property is located shall have jurisdiction to decide on a motion to enforce by vacating and handover of immovable property and to conduct the enforcement.

#### Method of Conducting Enforcement

#### Article 211

(1) Enforcement by vacating and handover of immovable property shall be conducted so

that the court official, after evicting persons and removing objects from the immovable property, hands the immovable property over into possession of the enforcement creditor.

(2) Vacating and handover of immovable property may commence after expiration of eight days from the date of delivery of the decision on enforcement.

(3) If eviction includes juveniles, the court shall notify the social welfare agency of the enforcement.

(4) Required manpower and transport for carrying out the enforcement shall be provided by the enforcement creditor at the request of the court official, and such request shall be communicated to the enforcement creditor at least eight days prior to conducting the enforcement.

(5) At the request of the court the police shall provide all necessary assistance in conducting the actions referred to in paragraph (1) of this Article.

(6) The court shall remove persons interfering with enforcement or shall fine such persons in accordance with Article 45 hereof.

## Removal of Chattels

### Article 212

(1) Chattels that must be removed shall be handed over to the enforcement debtor, and if he is not present, to an adult member of his household or to his proxy.

(2) If during enforcement none of the above mentioned persons to whom chattels may be handed over are present or such persons refuse to receive them, the chattels shall be handed over for safekeeping to a third party or the enforcement creditor, at the cost of the enforcement debtor.

(3) A court official shall hand over removed chattels for safekeeping to a third party or the enforcement creditor, and shall make a record thereof that shall be certified by conclusion by the enforcement judge. The court may by subsequent conclusion entrust chattels to another party instead of the party who has received them.

(4) The court shall notify the enforcement debtor of the handover of chattels to another person and of the costs of safekeeping thereof, and shall set an appropriate time limit for the enforcement debtor to request return of chattels after covering costs of safekeeping.

(5) Together with the notice specified in the preceding paragraph, the court shall warn the enforcement debtor that upon expiration of a set period of time the chattels shall be sold and that costs of safekeeping and costs of sale shall be recovered out of the proceeds of the sale.

## Sale of Chattels

### Article 213

(1) The court shall ex officio order by conclusion the sale of chattels on behalf of the enforcement debtor if he fails to demand their return and fails to pay the costs of safekeeping.

(2) Any portion of the sale price that remains after payment of safekeeping costs and costs of sale, shall be deposited with the court in favor of the enforcement debtor.

(3) The sale of chattels shall be conducted in accordance with provisions of this Law on enforcement against chattels.

## Enforcement to Cover Costs of Procedure

### Article 214

(1) The enforcement creditor may in the motion to enforce for vacating and handover of immovable property, request concurrent enforcement against chattels to be removed from the immovable property, to cover costs of enforcement procedure.

(2) The enforcement referred to in paragraph (1) of this Article shall be ordered and conducted in accordance with provisions of this Law governing enforcement on chattels of the enforcement debtor for collection of a monetary claim, and on motion of enforcement creditor.

## Chapter Three

## ENFORCEMENT OF OBLIGATIONS TO ACT, REFRAIN FROM ACTING OR SUFFER ACTION

### Territorial Jurisdiction

#### Article 215

If pursuant to executive title the enforcement debtor is obligated to take a certain action, refrain from taking a certain action, or suffer another person to take a certain action, the court on whose territory the enforcement debtor shall carry out the obligation pursuant to executive title shall have jurisdiction to decide on the motion to enforce and to conduct the enforcement.

### Action That can be Performed by Another Party

#### Article 216

(1) Enforcement to fulfill an obligation that may be performed by another party shall be conducted so that the court authorizes the enforcement creditor to entrust another person to perform such action or to perform it himself at the expense of the enforcement debtor.

(2) In the motion to enforce the enforcement creditor may request the court to order the enforcement debtor by decision to deposit in advance with the court an amount required for compensating costs that will be incurred for performing of said action by another person or the enforcement creditor.

(3) The court shall issue a final decision on costs referred to in paragraph (2) of this Article on motion of the enforcement creditor or enforcement debtor, after performance of the action.

(4) If it turns out subsequently that, pursuant to the decision referred to in paragraph (2) of this Article, more funds were obtained from the enforcement debtor than required to cover the costs of performing the action and the costs of the enforcement procedure, the court shall on motion of the enforcement debtor return the surplus if it is at the court's disposal, or order the enforcement creditor to return such surplus within a set period of time, if such surplus is at his disposal.

(5) Pursuant to a decision referred to in paragraph (2) of this Article, enforcement may be proposed before the decision on enforcement becomes final, and pursuant to a decision referred to in paragraph (3) of this Article after the decision becomes final.

### Action That can be Performed Only by the Enforcement Debtor

#### Article 217

(1) If the action determined in the executive title may be performed only by the enforcement debtor, the court shall in the decision on enforcement set a time period for the enforcement debtor to perform the obligation and shall concurrently set a fine referred to in Article 45 of this Law in the event he fails to comply.

(2) Upon expiration of the set time period, if the enforcement debtor has not performed the obligation, the court shall ex officio enforce the order on the fine.

(3) Concurrently, the court shall set another time limit for fulfillment of the obligation and set a new fine higher in amount than the one already enforced, to be paid in the event that he fails to comply within the new deadline.

(4) The court shall continue setting new fines and threaten penalty of new fines, setting new deadlines for fulfillment of the obligation, until the total sum of the fines reaches ten times the amount of the first fine.

(5) The enforcement debtor who performs his obligation within a time period set by the court shall, without delay, so inform the court and submit credible relevant evidence of performance. Credible evidence shall be an attested written statement of the enforcement creditor that the action was performed, a court official's record of performance, or findings and

opinion of a court expert witness stating that action has been performed.

(6) If an action that may be performed only by the enforcement debtor does not depend solely on his will (e.g., creation of a work of art or the like), the enforcement creditor shall not be entitled to request enforcement referred to in paragraph (1) of this Article and may instead only request compensation for damages.

## Refraining from Action and Suffering Action

### Article 218

(1) Enforcement shall be carried out in a manner stated in the previous Article also when the enforcement debtor violates an obligation to refrain from certain action or to suffer certain action.

(2) The court shall on motion of the enforcement creditor, order the enforcement debtor by decision to deposit a guarantee for damages if the enforcement creditor demonstrates a likelihood that he would sustain damages due to continued violation by the enforcement debtor of his obligation.

(3) The duration of the guarantee shall be determined by the court pursuant to circumstances of the case.

(4) Enforcement on the basis of a decision on deposit of guarantee shall be conducted on motion of the enforcement creditor.

## Enforcement for Reinstatement

### Article 219

(1) If due to behavior of the enforcement debtor contrary to his obligation from the executive title changes occurred that are not in accordance with the enforcement creditor's rights, the court shall, on the enforcement creditor's motion, authorize him to establish the status quo ante by himself or with assistance of a court official, at the risk and expense of the enforcement debtor.

(2) Provisions on costs for enforcement of actions which may be performed by a person other than the enforcement debtor, shall apply with respect to deposit of the amount required for establishing the status quo ante and final determination of such costs.

## Repeated Trespassing

### Article 220

(1) If enforcement was conducted on the basis of an executive title issued in trespass proceedings, or if the enforcement debtor has fulfilled his obligation voluntarily, and thereupon trespassed again and this trespassing does not essentially differ from the previous one, the court shall, on motion of the enforcement creditor and on the basis of the same executive title, issue a new decision on enforcement ordering return into possession, or a decision on enforcement imposing a fine for failure to perform an action that can be performed only by the enforcement debtor.

(2) The enforcement creditor may file a motion to enforce referred to in paragraph (1) of this Article within 30 days from the date of becoming aware of the repeated trespassing, but not later than one year after the repeated trespassing occurred.

## Compensation for Damages

### Article 221

The provisions of this Chapter shall not prejudice the right of the enforcement creditor to seek compensation in a court action for damages sustained from actions of the enforcement debtor contrary to the obligation determined in the executive title.

## Chapter Four

### ENFORCEMENT OF FAMILY LAW DECISIONS (CUSTODY OF THE CHILD)

#### Territorial Jurisdiction

##### Article 222

(1) Jurisdiction to decide on a motion to enforce a court decision ordering handover of a child to a parent or to another person, or to an organization entrusted with care and custody of the child, shall lie with in the court that has general territorial jurisdiction over the party requesting enforcement, and in the court on whose territory the child is located.

(2) The court in whose territory the child is located shall have territorial jurisdiction for conducting the enforcement.

#### Entitlement to File Motion

##### Article 223

A child, parent or other person that the child was entrusted to for care and have custody of, as well as a social welfare agency, may file a motion to enforce.

#### Method of Conducting Enforcement

##### Article 224

(1) When conducting enforcement the court shall take particular care for the need to protect the interest of the child to utmost extent.

(2) The court shall in the decision on enforcement set for the enforcement debtor a time limit that shall not exceed three days from the date of delivery of the order to hand over the child to the parent or to another person or to the organization entrusted with care and custody of the child, under penalty of fine.

(3) A fine shall be levied and enforced in accordance with the provisions of this Law regulating enforcement of an action that may be performed only by the enforcement debtor.

(4) If enforcement could not be accomplished by issuing and enforcing the decision on the fine, enforcement shall be conducted by taking the child away from the person who has custody of the child, and handing the child over to the parent or to the other person or the organization entrusted with care and custody of the child.

(5) Taking and handing over of the child as referred to in paragraph (4) of this Article may be conducted only by a judge in collaboration with a psychologist of a social welfare service, school, family counselor or other specialized institution for mediating family relationships.

#### Continuation of Enforcement

##### Article 225

The court shall on motion of the party to whom the child was entrusted, continue enforcement on the basis of same decision on enforcement if, within 60 days after the date of the handover of the child, the child is found again in the custody of the person from whom it was taken.

#### Taking the Child

##### Article 226

(1) As an exception to the provisions of the previous Article, in a case where it is determined that life, health and psychological and physical development of the child are threatened, the court shall without previous setting of a time period to comply with handover and avoid fine, conduct enforcement by taking the child away and handing him over to a parent or another person or organization entrusted with care and custody of the child.

(2) Enforcement shall be carried out in collaboration with the social welfare agency in



accordance with Article 224 paragraphs (4) and (5) of this Law.

## Chapter Five

### ENFORCEMENT FOR RETURNING AN EMPLOYEE TO WORK

#### Territorial Jurisdiction

##### Article 227

The court in whose territory the registered office of the employer is located shall have territorial jurisdiction to decide on a motion to enforce on the basis of executive title ordering the employer to return an employee to work or to assign him to appropriate work position.

#### Deadline for Filing of Motion to Enforce

##### Article 228

The motion to enforce referred to in Article 227 may be filed within 30 days from the date on which the enforcement creditor became entitled to file such motion

#### Method of Conducting the Enforcement

##### Article 229

(1) Enforcement on the basis of executive title ordering the employer to return an employee to work or to assign him to an appropriate work position, shall be conducted by imposing a fine against the employer.

(2) The fine shall be levied in accordance with Article 45 of this Law, and the procedure shall be repeated until the enforcement debtor performs his obligation.

#### Compensation for Lost Wages in Case of Return to Work

##### Article 230

(1) The enforcement creditor who has filed a motion for return to work may request the court to order the enforcement debtor to pay him monthly compensation for wages due from the date on which the decision became final to the date on which he was returned to work, and to order enforcement for collection of the amounts so determined.

(2) The motion for compensation may be joined with the motion to enforce, or may be filed subsequently until the end of the enforcement procedure.

(3) A decision granting a motion for compensation shall have the effect of a decision on enforcement.

(4) The enforcement debtor employer may move the court to set aside the decision referred to in paragraph (3) of this Article if the circumstances on which it was based changed after it was issued.

(5) Compensation of the monthly wage shall be determined in the amount receivable by the employee if he were working.

(6) If the court only grants in part the motion of the enforcement creditor for compensation of damages, he may seek the remaining amount in a litigation procedure.

## Chapter Six

### ENFORCEMENT OF A DECISION ON APPORTIONING OBJECTS

#### Territorial Jurisdiction

##### Article 231

The court in whose territory a jointly owned object is located shall have jurisdiction to decide on a motion to enforce against, and to conduct enforcement of a decision on apportioning, a jointly owned object.

### Physical Division

#### Article 232

(1) Physical division of jointly owned objects shall be granted if such division is provided for in the executive title.

(2) Particular physical division actions shall, according to circumstances of the case, be carried out by the judge, or the judge may delegate such authority to a court associate or court official.

(3) The court shall invite participants to be present at the carrying out of the division.

(4) Where appropriate the court shall order expertise.

### Division by Sale

#### Article 233

If pursuant to executive title the jointly owned object should be sold in order to be divided, sale shall be carried out in accordance with the provisions of this Law governing enforcement on chattels or real property, unless the parties agree differently on particular issues.

### Costs of the Procedure

#### Article 234

(1) The costs of conducting enforcement in accordance with this Chapter shall be borne by all owners, pro rata according to their shares in the jointly owned object.

(2) An owner who has caused additional expense is liable to compensate the to the other owners sustaining such expenses.

## Chapter Seven

### ENTRY OF RIGHTS IN PUBLIC BOOKS

#### Territorial Jurisdiction

##### Article 235

(1) Jurisdiction to decide on a motion to enforce for establishing a right over real property through recordation in the public book shall be in the court that keeps the public book in which recordation should be made or another court as determined by Republic law on whose territory the court or another body is located which keeps the public book.

(2) Conduct of the enforcement for entry in the public book shall be in the jurisdiction of the court or other body responsible for keeping of the public book for the relevant immovable property.

#### Method of Enforcement

##### Article 236

(1) Pursuant to executive title setting out the requirement of recordation in the public book, the court shall order the recordation to be made in the public book.

(2) The recordation ordered by a decision on enforcement shall be conducted ex officio.

Entry of Property Right When Enforcement Debtor is not Recorded as Owner

#### Article 237

If the enforcement debtor has not been recorded as owner of the immovable property, entry of ownership right of the enforcement creditor on that immovable property may be carried out if the enforcement creditor files, together with the motion to enforce, evidence in accordance with the provisions on recordation of immovable property rights that the legal predecessor of the enforcement debtor is recorded as the owner.

#### Entry of Another Right if the Enforcement Debtor is not Recorded as Owner

#### Article 238

If, according to executive title, the enforcement creditor is authorized to seek entry of a lien or another right in immovable property against the enforcement debtor, except ownership right, and the enforcement debtor has not been recorded as owner of the immovable property, the enforcement creditor may in the motion to enforce request to have the enforcement debtor's ownership recorded, and thereupon record the enforcement creditor's right, if he submits evidence, in accordance with the provisions of recordation of immovable property rights, that the enforcement debtor has acquired ownership of that property.

#### Entry of the Right in Other Public Registries

#### Article 239

Provisions of this Chapter shall apply accordingly to recording of rights in other public books, unless provided otherwise by a special law.

### Chapter Eight

#### STATEMENT OF WILL

##### Unconditional Claim

#### Article 240

If a decision which has the status of executive title obligates the enforcement debtor to make a statement of will, it shall be deemed that he has given a statement with content as provided in the executive title as of the moment such decision becomes final.

If an enforcement debtor is obligated by court or administrative settlement to make a statement of will, such statement shall be deemed given with content as provided in the settlement as of the date his obligation from the settlement becomes due.

##### Conditional Claim

#### Article 241

If fulfillment of an obligation to provide a statement of will depends on the fulfillment of an obligation of the enforcement creditor or another condition, it shall be deemed that the enforcement debtor has provided the statement of will when the enforcement creditor has fulfilled his obligation, or when the other condition has been met requiring proof of public document or legally attested document.

PART FIVE  
SPECIFIC ENFORCEMENT PROVISIONS IN COMMERCIAL  
AND RELATED MATTERS

Chapter One  
ENFORCEMENT IN COMMERCIAL MATTERS

1. General Provisions

Status of Enforcement Debtor

Article 242

The provisions of this Chapter shall be applicable to commercial matters, when the enforcement debtor is a legal entity, entrepreneur or a natural person engaging in business activity for profit and has an account opened in accordance with provisions on payment transactions.

Contents of the Motion to Enforce

Article 243

(1) A motion to enforce against a legal entity shall contain, in addition to the requirements stated

in Article 49 of this Law, the following:

- 1) the debtor's identification number;
- 2) the debtor's tax number;
- 3) the names of commercial banks and numbers of debtor's accounts with commercial banks; and
- 4) the name of the bank and account number of the creditor.

(2) If a debtor fails to provide the creditor with data referred to in paragraph (1) of this Article without delay, the motion may be submitted without such data, and the court shall order the organization for enforced collection to provide that data.

(3) A request to the organization for enforced collection to provide data may also be filed by the enforcement creditor if he submits evidence that an enforcement procedure has been initiated.

(4) The organization for enforced collection shall provide requested data without delay.

Service

Article 244

(1) Service on a legal entity shall be made to the entity's registered office as registered in the registry of business entities. If such service is unsuccessful, service shall be made to the address of a person authorized to represent the entity and who is registered in the registry.

(2) If service referred to in paragraph (1) of this Article remains unsuccessful, service shall be made on the posting board of the court and it will be considered that service is successfully made upon expiration of eight days after the date of posting.

2. Common Provisions on Enforcement Against Shares in a Joint Stock Company and  
Shares in a Limited Liability Company

Territorial Jurisdiction

#### Article 245

The commercial court in whose territory the public registry of companies is kept in which the company against whose shares enforcement is sought is registered, shall have jurisdiction to conduct enforcement against such shares.

#### Enforcement Actions

#### Article 246

Enforcement against shares of a company shall be conducted through attachment, valuation, sale, and satisfaction of the creditor.

### 3. Enforcement Against Shares of Joint Stock Company

#### Attachment

#### Article 247

(1) A decision on enforcement against shares of a joint stock company shall be served on the enforcement creditor, the enforcement debtor, and the Central Registry of Securities.

(2) The enforcement debtor may not dispose of attached shares after the moment of attachment.

(3) The attachment on the shares shall be effected through serving the decision on enforcement against the shares to the Central Registry of Securities.

(4) The enforcement creditor shall acquire a lien on attached shares at the moment of attachment.

(5) The Central Registry of Securities shall without delay, upon receiving the decision on enforcement, or on motion of the enforcement creditor, record the lien on the shares in the Registry. From the moment of recordation, third parties may not claim ignorance of the existence of the enforcement creditor's lien.

#### Valuation and Sale

#### Article 248

(1) The value of the shares shall be determined by the court.

(2) If the shares are quoted on the stock exchange, the value shall be determined on the basis the average price of the shares on the stock exchange over the past 30 days. If the value cannot be determined in this manner, the court shall on motion of one of the parties order expert appraisal.

(3) If the shares are traded on the stock exchange, they shall be cashed out at the stock exchange.

(4) Shares may also be sold in other ways allowed by the law regulating share trading.

(5) The provisions of this Law on satisfaction through sale of chattels shall apply accordingly to valuation and sale of shares and satisfaction of the creditor from the proceeds.

### 4. Enforcement Against Shares of a Limited Liability Company

#### Attachment

#### Article 249

(1) A decision on enforcement against shares in a limited liability company shall be served on the enforcement creditor, the enforcement debtor, the court, and the organization which keeps the registry in which the limited liability company is registered.

(2) Attachment on shares in a limited liability company shall be effected through serving the decision on enforcement against the shares on the court or the organization referred to in

paragraph (1) of this Article.

(3) The enforcement creditor shall acquire a lien through attachment.

(4) The decision on attachment shall be delivered to the limited liability company, which shall on the same day record the lien in its book of members.

(5) The decision on attachment shall also be delivered to the court or organization maintaining the public register of limited liability companies, which shall without delay record the lien on the share.

(6) After the lien is acquired, the debtor may not dispose of the share.

## Valuation and Sale

### Article 250

The provisions of this Law regulating valuation and sale of shares in a joint stock company shall apply accordingly to valuation and sale of shares in a limited liability company.

## Preemptive Right

### Article 251

(1) In the sale of a share in a limited liability company the other members of the company shall have a preemptive right.

(2) The preemptive right of the other members shall be exercised in accordance with provisions on preemptive rights related to enforcement against immovable property.

## Chapter Two

### SUMMARY ENFORCEMENT PROCEDURE

#### Parties

### Article 252

Summary enforcement procedure may be conducted if the enforcement creditor and the enforcement debtor are legal entities, entrepreneurs, or individuals conducting business activity for profit and have an account opened in accordance with provisions on payment transactions, or individuals having the status of debtor in a commercial credit contract.

#### Authentic Document Based on Which Summary Enforcement Procedure can be Conducted

### Article 253

(1) Summary enforcement may be conducted on the basis of an authentic document that proves beyond doubt the existence, the amount and the maturity of the claim, particularly: 1) bill of exchange or cheque, with protest and with documentation if necessary for establishment of a claim; 2) bond and other securities entitling their holders to be paid in their nominal value;  
3) matured unconditional bank guarantee;  
4) matured unconditional letter of credit;  
5) enforcement debtor's certified statement authorizing the enforcement creditor to transfer

funds;

- 6) official document constituting an enforceable monetary obligation; and
- 7) every commercial contract.

(2) An authentic document referred to in paragraph (1) 7) of this Article is a written contract signed by authorized parties and authenticated by a court having jurisdiction, or by another authorized body in accordance with this Law.

(3) Summary enforcement procedure may not be conducted on the basis of a foreign official document.

## Motion to Conduct Summary Enforcement Procedure

### Article 254

(1) An enforcement creditor wishing to conduct summary enforcement on the basis of authentic documents referred to in the previous article is obligated to explicitly so state in the motion to enforce.

(2) If the enforcement creditor fails to state that enforcement shall be conducted on the basis of means of payment i.e. that summary enforcement shall apply, enforcement shall be conducted in accordance with other provisions of this Law regulating enforcement on the basis of authentic document.

(1) Upon determining that all conditions for summary enforcement have been met, a court shall issue a decision, in accordance with the Article 52 of this Law, granting summary enforcement procedure.

(2) An appeal may be filed from a decision rejecting or dismissing a motion for summary enforcement procedure.

## Grant of Enforcement

### Article 255

## Objection

### Article 256

The enforcement debtor may file an objection against a summary enforcement decision. An objection may be filed on the following grounds:

- 1) the authentic document referred to in Article 253 contains untrue content;
- 2) the authentic document is signed by an unauthorized person;
- 3) the obligation under the authentic document has been fulfilled;
- 4) the obligation under the authentic document has not yet matured;
- 5) a concurrently matured obligation of the creditor under the authentic document is not fulfilled.

The objection may be filed within three days from the date the decision on summary enforcement decision has been delivered.

## Objection Evidence

### Article 257

(1) When filing the objection the enforcement debtor shall be obligated to submit the following evidence:

- 1) a final court decision declaring that the authentic document contains untrue content or an extract from the Central Registry of Securities, if it is claimed that the document contains untrue content;

- 2) an extract from the registry showing the persons authorized to represent an entity at the time the document was issued, if it is claimed that the document was signed by an unauthorized person;
- 3) a payment order in written or electronic form based on which the payment transaction has been conducted, if it is claimed that the obligation is fulfilled.

(2) In the case of an objection that an obligation is not matured, nonmaturity shall be determined from the document itself.

(3) In case of an objection that a concurrently matured obligation of the creditor under the authentic document is not fulfilled, the court shall set a time period of three days for the creditor to submit evidence that he fulfilled the obligation.

(4) If the creditor proves that he fulfilled such obligation, the court shall issue a decision on enforcement against the enforcement debtor.

## Procedure Upon Objection

### Article 258

(1) A panel of three judges from the court that issued the summary decision on enforcement shall decide upon the objection.

(2) If the court finds the objection merited, it shall remand the summary decision on enforcement in the part that grants enforcement and shall hand the case over to a litigation court for further procedure, as for enforcement on the basis of authentic document.

(3) The court shall be obligated to issue the decision on the objection within eight days after the date the objection was filed in the court.

(4) An objection shall suspend enforcement of the decision on enforcement.

### Appeal

### Article 259

(1) An enforcement debtor may file an appeal from a decision dismissing or rejecting the objection.

(2) The time period for an appeal referred to in paragraph (1) of this Article shall be three days.

(3) The appeal shall not suspend enforcement.

(4) A decision on appeal shall be issued within eight days after the date the case was received by the second instance court.

(5) A decision on the appeal by the second instance court may remand or affirm the decision of the panel.

(6) If the second instance court remands the decision rejecting the objection, the case shall be returned to the panel of the first instance court for retrial on the objection.

(7) If the second instance court remands the decision rejecting the objection, the decision on summary enforcement in the part granting enforcement shall be legally ineffective, and the procedure shall be continued as in a procedure upon the objection against the payment order.

## PART SIX

## SECURITY

### Chapter One

## GENERAL PROVISIONS

### Initiating the Procedure

### Article 260



(1) A security procedure shall be initiated on motion of a party, and on motion of other persons or bodies only when the law so provides.

(2) A motion for security shall state the claim for which security is requested, the legal grounds for security, the facts and evidence that will enable the court to determine that legal grounds for security are likely to exist, and the means of security.

## Means of Securing

### Article 261

The means of security shall be the following: lien on chattels or immovable property based on agreement of the parties, lien on immovable property based on executive title, and preliminary and temporary measures.

### When Security Not Allowed

#### Article 262

Security shall not be allowed against objects and rights that may not be objects of enforcement under the law.

### Appropriate Application of Provisions of Particular Laws

#### Article 263

(1) Provisions of the Law on Civil Procedure shall apply accordingly to deliberation and decision on a motion for security, unless provided otherwise in this Law.

(2) In enforcing a decision on security, provisions of this Law regulating enforcement procedure shall apply accordingly, unless provided otherwise by provisions of this Chapter.

### Competence and Composition of the Court

#### Article 264

(1) If a motion for security is made before commencement of litigation or another procedure to determine whether the claim for which security is requested is merited, the court with jurisdiction to decide in the first instance on the merits of the claim shall have jurisdiction.

(2) In a security procedure a single judge shall proceed and issue a decision, regardless of the composition of the court that would adjudicate the main claim.

(3) If a motion for security is made concurrently with or after commencement of litigation or another procedure to determine the merits of the claim for which security is requested, the court or other body which shall decide the claim shall proceed and issue decisions in the security procedure.

(4) If a motion for security is made before a court in which an appeal from a decision on the main claim is pending or a procedure on extraordinary legal remedy, that court shall decide on the motion for security shall notify the first instance court without delay.

(5) If a motion for security is made during an enforcement procedure, the court before which the enforcement procedure is being conducted shall decide on the motion for security.

(6) Security on objects and rights that are recorded in public books or other registries shall be under exclusive jurisdiction of the court in whose territory the seat of the body or organization keeping such records or register is located.

### Special Provisions on Security Procedure

#### Article 265

(1) In the course of a security procedure the court may issue a decision on security prior to service of the motion on the other party and before the other party was given opportunity to declare on the

(2) The court shall, in the course of a security procedure, consider only such facts and

only such evidence as is presented by the parties and that the court considers essential for deciding on the motion for security. Evidence through testimony of the parties shall be heard only if the court concludes that facts in respect of legal grounds for ordering enforcement, under the circumstances, can not be proved by other means.

(3) When deciding on the legal grounds for security, the probability that the facts exist on which evaluation of such grounds depends is sufficient, unless this Law provides otherwise.

(4) The public shall be excluded from proceedings deciding on securing of marital and family claims.

(5) Service of documents in a security procedure shall be conducted through appropriate application of the provisions on service in an enforcement procedure.

- motion:
- 1) if the movant for security, due to the delay, may suffer irreparable or hardly recoverable damage;
  - 2) to avoid immediate danger of unlawful damage to the object or loss or serious violation of a right; or
  - 3) to prevent violence.

## Decision on Security

### Article 266

The decision on security shall contain the court's decision specifying means of security, a short explanation of the legal grounds for accepting the motion on security, a statement of whether the appeal suspends the enforcement of the decision, the time period for filing an appeal, and to which court the appeal should be filed.

## Legal Remedies

### Article 267

(1) An appeal from a decision on security, as well as an appeal from a decision rejecting or dismissing a motion for security, shall be submitted to the court within three days after delivery of the decision.

(2) An appeal from a decision on security shall suspend enforcement of the decision only when so provided under this Law.

(3) An appeal referred to in paragraph (1) of this Article, together with the case file, shall be delivered without delay to the court with competent jurisdiction to decide the appeal, which shall decide the appeal within eight days after receipt of the case file.

(4) Nonobservance of the time limits set out in paragraph (3) of this Article shall be considered as dilatory behavior of the judge in the sense of the Law on Judges.

(5) Revision or repetition of a security procedure shall not be allowed.

## Chapter Two

### LIEN ON IMMOVABLE AND MOVABLE PROPERTY BY AGREEMENT OF THE PARTIES

#### Territorial Jurisdiction

## Article 268

(1) Jurisdiction to decide on a motion for securing a monetary claim by establishing a lien on immovable property through agreement of the parties shall be in the court which maintains the public book in which the entry should be made, or the court in whose territory the body that maintains the public registry in which entry should be made is located.

(2) The court or body maintaining the public book for that immovable property shall have jurisdiction to conduct the securing.

(3) Jurisdiction to decide on a motion for securing a monetary claim by establishing a lien on chattels through agreement of the parties, and to conduct the securing, shall be in the court in whose territory the chattel is located.

## Motion for Security

### Article 269

A creditor and debtor may agree to request the court to order and conduct entry of a lien on immovable property of the debtor, or to order and conduct an inventory of the debtor's chattels for the purpose of securing a monetary claim of the creditor by establishing a lien on the debtor's immovable property or chattels.

## Hearing to Consider the Motion and Agreement of the Parties

### Article 270

(1) On motion of the parties, the court shall order a hearing to establish in the minutes the agreement made by the parties on the existence of a monetary claim and its maturity, as well as their agreement to secure the monetary claim through recording a lien on immovable property of the enforcement debtor or through establishing lien through inventory of the debtor's chattels.

(2) Signed minutes of the agreement of the parties referred to in paragraph (1) of this Article shall have the effect of a court settlement.

## Ordering and Conducting of Securing

### Article 271

(1) Pursuant to an agreement referred to in Article 270 of this Law, the court shall issue a decision on recordation and undertake all necessary actions to conduct recordation of the lien on the debtor's immovable property, or order and conduct inventory of the debtor's chattels.

(2) The decision referred to in paragraph (1) of this Article shall have the effect of a decision on security.

## Applicability of Other Provisions of this law

### Article 272

(1) The provisions of Article 263 of this Law shall apply accordingly to securing monetary claims of creditors through establishment of a lien on the debtor's immovable property on the basis of agreement of the parties.

(2) The provisions of Articles 7278 of this Law shall apply accordingly to securing monetary claims of creditors through establishment of a lien on the debtor's chattels on the basis of agreement of the parties.

(1) On motion by the enforcement creditor and upon establishing that the agreement of the parties referred to in Article 270 of this Law is enforceable, the court by decision shall grant and conduct enforcement against the debtor's immovable property or chattels, for the purpose of securing the

creditor's monetary claim in accordance with provisions on enforcement against immovable property (Articles 98151) or provisions on enforcement against chattels (Articles 69-

97), subject to the provision on exemption from enforcement in Article 70 of this Law.

(2) The decision referred to in paragraph (1) of this Article shall have the effect of a decision on enforcement.

(3) Recording of a decision on enforcement against immovable property (Article 102) shall have legal effect as of the day of recording of the lien on immovable property in the securing procedure (Articles 271 and 272).

(4) The activity of taking inventory of chattels shall not be repeated, and the inventory undertaken shall have legal effect as of the date of acquisition of the lien in the securing procedure (Article 271 and Article 272 (2)).

## Sale of Immovable Property or Chattels of the Enforcement Debtor

### Article 273

## Chapter Three

# LIEN ON IMMOVABLE PROPERTY BASED ON EXECUTIVE TITLE

## 1. Lien on Items and Rights Registered in Public Books

### Territorial Jurisdiction

#### Article 274

The court in whose territory immovable property on which a lien would be recorded is located, shall have jurisdiction to decide on a motion for securing a monetary claim through establishment of a lien on such property, and to conduct the securing procedure.

### Requirements for Establishing Lien Right

#### Article 275

On the basis of executive title which establishes a monetary claim, an enforcement creditor shall have the right to request that the claim be secured through establishing a lien on the enforcement debtor's immovable property.

### Manner of Establishing

#### Article 276

(1) A lien on immovable property shall be established by recording the lien in the public book.

(2) During recordation of the lien, the enforceability of the claim for which the lien is allowed shall be recorded in the public book.

(3) If the enforcement creditor, before the claim became enforceable, had already acquired a lien on the same immovable property through a contract, or if the lien has been prerecorded, the court shall, on motion of the enforcement creditor, order that enforceability of the claim be recorded in the public book.

### Effect of Recording

#### Article 277

Recordation of a lien and recordation of enforceability of a claim shall have the effect that enforcement against the immovable property may be conducted also against a third party who acquires that immovable property later.

## 2. Acquiring Lien on Items and Rights not Recorded in Public Books

### Claims Eligible for Securing

## Article 278

In order to secure a monetary claim that cannot be secured through recording in a public book or other public registry, securing through establishing a temporary lien may be ordered, if the movant establishes the probability that there is a risk that without such securing, enforcement will be impossible or made significantly more difficult.

### Manner of Acquiring Lien Right

## Article 279

A lien shall be acquired through inventory under the conditions prescribed by this Law.

### Applicability

## Article 280

The provisions on lien rights on chattels shall apply accordingly in the case of termination of lien rights and in sale and converting into cash of items and rights not recorded in public books.

## Chapter Four

### PRELIMINARY MEASURES

#### Territorial Jurisdiction

## Article 281

Jurisdiction to decide on a motion for securing by imposing a preliminary measure, and conduct of such a measure, shall be in the court that would have jurisdiction for enforcement against the object against which enforcement is sought.

#### Requirements for Imposing a Preliminary Measure

## Article 282

(1) A preliminary measure shall be imposed on the basis of a decision of a domestic court on a monetary claim which has not become final or enforceable, if an enforcement creditor establishes the probability that there is a risk that, without such securing, satisfaction of the claim will be impossible or made significantly more difficult.

(2) The provisions of paragraph (1) of this Article shall apply to settlement concluded before a court or body deciding in an administrative procedure, when the claim has not matured.

(3) A preliminary measure may be imposed on the basis of a payment order issued based on a bill of exchange or a cheque.

### Presumed Risk

## Article 283

(1) For purposes of Article 282 of this Law, a risk shall be deemed to exist if the motion for security is based on one of the following decisions:

(2) In cases referred to in paragraph (1)4) and 5) of this Article the court may, on motion

of the enforcement debtor, condition a preliminary measure on deposit of a guarantee by the enforcement creditor to cover potential harm that may be inflicted on the enforcement debtor as a result of the preliminary measure.

- 1) a payment order issued on the basis of a bill of exchange or cheque against which timely objection has been made;
- 2) a judgment issued in a criminal matter accepting a claim, against which a repeating of the procedure is allowed;
- 3) a decision according to which enforcement should take place abroad;
- 4) a judgment on the pleadings which has been appealed; or
- 5) 5) settlement made before a court or body deciding in administrative procedure which is contested in a manner prescribed by law.

## Securing Claims Whose Installments have not Matured

### Article 284

(1) Securing through a preliminary measure of unmatured installments a claim on the basis of a statutory maintenance right, a compensation claim for lost maintenance due to death or illness or diminished or lost work capacity, shall be ordered solely for installments that will become mature in the following year.

(2) In cases referred to in paragraph (1) of this Article the existence of a risk shall be presumed if the enforcement procedure has already had to be conducted against the enforcement debtor to satisfy matured installments, or if such enforcement has been proposed.

## Types of Preliminary Measures

### Article 285

(1) The court may order the following preliminary measures:

- 1) inventory of chattels;
- 2) prohibiting the enforcement debtor's debtor from satisfying the enforcement debtor's claim or handing over items, or prohibiting the enforcement debtor from collecting claims or receiving those items or disposing of them;
- 3) prohibiting a bank from paying the enforcement debtor, or paying a third party at the order of the enforcement debtor, the amount which is the object of the preliminary measure; or
- 4) prerecordation of a lien on immovable property of the enforcement debtor or on the rights in that property.

(2) The court may on request of the enforcement creditor, and in accordance with the circumstances of the case, order two or more preliminary measures if necessary.

## Prohibition of Transfer of Enforcement Debtor's Funds

### Article 286

The funds of an enforcement debtor in a bank account for which prohibition of

payment has been ordered, may not be transferred from that account during the prohibition, except in satisfaction of the secured claim.

#### Sale of Items on Inventory List and Transfer of Enforcement Debtor's Claim

##### Article 287

(1) The court shall order a sale of movable assets on the inventory list which are susceptible to quick deterioration or if there is a risk of significant reduction of their value.

(2) The sale of items on the inventory list shall be conducted in accordance with provisions of this Law on enforcement against chattels.

(3) If a preliminary measure has been ordered prohibiting payment of a claim the court may, on motion of either the enforcement creditor or the enforcement debtor, order transfer of the claim to the enforcement creditor for collection, if there is a risk that, due to delayed payment of the claim, it cannot be collected or that the right of recourse against a third party can be lost.

(4) The amount obtained through sale of items or through collecting claims shall be kept by the court until the preliminary measure is terminated or until the enforcement creditor proposes enforcement, but not later than 30 days from the date the claim became enforceable.

#### Decision on Imposing Preliminary Measure

##### Article 288

(1) A decision imposing a preliminary measure must, inter alia, specify the amount of the claim which is secured with interest and costs, the preliminary measure and its duration.

(2) The duration referred to in paragraph (1) of this Article may not last beyond eight days after the requirements for enforcement are met.

(3) If the period referred to in paragraph (1) of this Article expires before the decision to impose a preliminary measure becomes final, the court shall, on motion of the enforcement creditor, extend that period, provided that circumstances in which the preliminary measure was imposed have not changed.

#### Removal of a Preliminary Measure

##### Article 289

(1) The court shall, on motion of the enforcement creditor, terminate the procedure and revoke actions that have been taken in the following cases: 1) if the enforcement debtor deposits with the court the amount of the claim which is secured, including interest and costs; 2) if the enforcement debtor proves it probable that the claim has already been collected or sufficiently secured at the time making of the decision on imposing the preliminary measure; or 3) if it has been determined by final decision that a claim has not been established or that it ceased to exist.

(2) The court shall terminate the procedure and revoke actions that have already been taken if, within 15 days after the expiration of the duration of preliminary measures, requirements for enforcement have not been met.

(3) In cases referred to in paragraph (1) 2) and 3) and paragraph (2) of this Article, costs caused by ordering and conducting the preliminary measure shall be paid by the enforcement creditor to the enforcement debtor.

(4) In such cases the enforcement debtor shall also have the right to compensation for damages suffered by him.

Termination When Enforcement Creditor does not Request Enforcement

#### Article 290

If the requirements for enforcement are fulfilled before the duration of the preliminary measures expires, the court shall, on motion of the enforcement debtor, terminate the procedure and revoke actions already taken, unless the enforcement creditor files a motion for enforcement within 15 days.

### Chapter Five

#### TEMPORARY MEASURES

##### 1. General Provisions

##### When a Temporary Measure may be Ordered

#### Article 291

A temporary measure may be ordered before or in the course of a court or administrative proceeding, as well as after the termination of such a proceeding, until such time as enforcement is conducted.

##### Inadmissibility of Temporary Measure

#### Article 292

A temporary measure shall not be ordered if security may be obtained through other means which achieve the same objective.

##### Guarantee in Lieu of Temporary Measure

#### Article 293

An enforcement creditor may in the motion for temporary measure, or subsequently, declare that instead of a temporary measure he would accept a deposit by the enforcement debtor of certain amounts as a guarantee.

Deposit of a guarantee in lieu of a temporary measure may also be ordered on motion of the enforcement debtor.



If an enforcement debtor deposits a guarantee, the court shall terminated the proceeding and repeal actions already conducted.

#### Guarantee as a Condition for Temporary Measure

#### Article 294

The court may on motion of the enforcement creditor order a temporary measure when the enforcement creditor has shown the probability of the existence of a claim and risk, if prior to that and within a set period the enforcement creditor deposits an amount determined by the court as a guarantee for damages that may be sustained by the enforcement debtor by ordering and conducting the temporary measure.

The court may, on motion of the enforcement debtor and considering the circumstances of the case, proceed pursuant to paragraph (1) of this Article also when the enforcement creditor has shown the probability of the existence of a claim and risk.

#### Ordering Several Temporary Measures

#### Article 295

The court may, considering the circumstances of the case and if appropriate, order several temporary measures on motion of the enforcement creditor.

#### Period for Which Temporary Measure is Ordered

#### Article 296

The temporary measure shall state the duration of the temporary measure. If the temporary measure is ordered before the filing of the motion or before initiation of another procedure, the time the period shall be stated in which the creditor must file the motion, or a motion for initiation of another procedure to justify the temporary measure.

The court shall, on motion of the enforcement creditor, extend the duration of a temporary measure if the circumstances when the circumstances when the temporary measure was ordered have not changed.

The motion referred to in paragraph (2) of this Article may be filed only before the expiration of the time period for which temporary measure was ordered.

#### Revoking of Temporary Measure

#### Article 297

(1) If an enforcement creditor has not filed an action within the set period, or had not initiated another procedure for justification of the temporary measure, or the period for which the temporary measure was ordered has expired, the court shall, on motion of the enforcement debtor, terminate the procedure and revoke actions already taken.

(2) The procedure shall be discontinued on motion of the enforcement creditor and actions already taken shall be revoked, if circumstances when the temporary measure was ordered have changed, thus making it unnecessary.

#### Compensation of Debtor's Damages

#### Article 298

A debtor is entitled to compensation from the creditor for damages sustained from a temporary measure subsequently determined to be without grounds or which the creditor failed to justify.

#### 2. Temporary Measure for Securing Monetary Claim

#### Conditions for Determining the Temporary Measure

## Article 299

(1) A temporary measure for securing monetary claims may be ordered if the enforcement creditor shows the probability of the existence of a claim and the risk that without such temporary measure the enforcement debtor would prevent or considerably hinder satisfaction of the claim by disposing of, hiding or otherwise making unavailable his property or means.

(2) The enforcement creditor shall not be required to prove risk if he shows the probability that the enforcement debtor would sustain only insignificant damage from the temporary measure.

(3) It shall be considered that risk exists particularly when:

- 1) the claim would have to be enforced abroad;
- 2) an enforcement procedure for due maintenance installments had already been carried out against the opposing party in the past;
- 3) the enforcement debtor's statutory obligations, and obligations determined in final decisions of courts and other authorities exceed his regular income; an unsuccessful enforcement has been attempted against the enforcement debtor, and the reason for lack of success was his refusal to provide information on where his property is located, and provided false information on his property in earlier enforcement procedures.

## Types of Temporary Measures

### Article 300

(1) In order to secure a monetary claim, any means achieving the objective of such securing may be ordered, and in particular:

- 1) prohibiting the enforcement debtor from disposing of chattels, as well as seizing such chattels from the enforcement debtor and entrusting them to the enforcement creditor or a third party for safekeeping, or for safekeeping in deposit with the court;
- 2) prohibiting the enforcement debtor from disposing of or encumbering his immovable property or rights to immovable property recorded in his favor in the public book, with recordation of such prohibition in the public book;
- 3) prohibiting the enforcement debtor from paying the debtor's claim or from handing over objects to the enforcement debtor, and prohibiting the enforcement debtor from receiving such objects, collecting the claim or disposing of what is received or collected;
- 4) ordering a bank or other financial institution where the enforcement debtor has an account to delay payment to the enforcement debtor or a third party on order of the enforcement debtor from such account the amount that is the object of the injunction; or
- 5) seizure of cash or securities from the enforcement debtor and depositing them for safekeeping.

(2) Prohibitions and orders referred to in paragraph (1) of this Article shall be considered effective when the order is served on the relevant person.

(3) Instructions to a bank or other financial organization referred in paragraph (1) 4) of this Article shall be delivered to the organization for enforced collection, which shall promptly deliver it to the banks and financial organizations where the enforcement debtor has an account, and shall concurrently prohibit other banks and financial organizations from opening accounts in favor of the

enforcement debtor.

(4) The enforcement creditor in whose favor the temporary measure has been ordered is entitled to claim compensation from the person obligated to observe a prohibition or instruction, for damages sustained due to noncompliance.

(5) An enforcement debtor or a third party against whom a temporary measure referred to in paragraphs (1)(4) of this Article was ordered, and who fails to comply with the prohibition or order, shall be fined in accordance with provisions of Article 40 of this Law.

## Effects of Temporary Measures

### Article 301

Temporary measures will not establish a lien but the court may order, especially if risk referred to in Article 299 (3) of this Law is present, that a temporary measure establishes a temporary lien.

## 3. Temporary Measure for Securing NonMonetary Claim

### Conditions for Ordering Temporary Measure

#### Article 302

(1) A temporary measure may be ordered to secure a nonmonetary claim if the enforcement creditor has shown the probability of the existence of the claim and a risk that otherwise satisfaction of the claim would be prevented or considerably hindered.

(2) A temporary measure may also be ordered when an enforcement creditor shows the probability that the temporary measure is necessary to prevent use of force or infliction of irreparable damage.

The provisions of Article 299 (2) 3) of this Law shall apply as well with respect to temporary measures for securing a nonmonetary claim.

### Types of Temporary Measures

#### Article 303

(1) In order to secure a nonmonetary claim, any measure that would achieve the objective of such security may be ordered, and in particular:

(2) An enforcement creditor in whose favor a temporary measure has been ordered may claim compensation from the person who was obligated to observe the prohibition or order for damages sustained as a result of noncompliance.

(3) Bans and orders referred to in paragraph (1) of this Article shall be considered effective when the decisions are served on the relevant persons.

(4) An enforcement debtor or a third party under a ban or order referred to in paragraph (1) of this Article and who fails to comply with the ban or order, shall be fined in accordance with Article 40 hereof.

- 1) a ban on disposing of or encumbering chattels under claim, seizing of such chattels and entrusting them to the creditor or a third person for safekeeping, or for safekeeping in deposit with the court;

- 2) a ban on disposing of or encumbering immovable property under claim, and recording such ban in the public book;
- 3) a ban against the enforcement debtor taking actions that may cause damage to the enforcement creditor, as well as against the enforcement debtor altering objects under the claim;
- 4) a ban against the enforcement debtor's debtor handing over to the enforcement debtor objects under the claim;
- 5) a ban against disposing or encumbering stocks and shares which are under the claim and recording such ban with the Central Registry of Securities or in the shareholder registry and public registry of limited liability companies, or a ban on use and disposing of rights deriving from stocks and shares and entrusting stocks or shares for management to third parties, including appointment of provisional management of a company;
- 6) orders to the enforcement debtor to take specific actions necessary for protection of chattels or immovable property, and to prevent their physical alteration, or damage or destruction;
- 7) authorization to the enforcement creditor to, by himself or through a third party, take an action or procure a particular object at the debtor's expense, especially if necessary to attain status quo ante;
- 8) payment of compensation to an employee for duration of court action in respect of legality of decision on terminating employment, if that is necessary for his support and of persons he is required by law to support, with concurrent means of determination of enforcement for coercive collection of compensation and provisional reinstatement of the employee; or
- 9) temporary regulation of a disputed relationship in order to prevent violence or infliction of irreparable damage.

## PART SEVEN

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 304

Procedures of enforcement or security which are commenced before the date of legal effectiveness of this Law, shall be continued and completed under the provisions of the former Law on enforcement procedure (Official Gazette SRJ, No.28/00, 73/00 and 71/01)

#### Article 305

From the date of effectiveness of this Law the former Law on Enforcement (Official Gazette SRJ , No.28/00, 73/00 and 71/01) shall be repealed.

Article 306

This Law shall be legally effective upon the expiration of three months after the date of publication in the Official Gazette of the Republic of Serbia.