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# How to enforce a court decision



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European Judicial Network  
(in civil and commercial matters)

## 1 What does enforcement mean in civil and commercial matters?

Enforcement proceedings in Croatia are regulated by the Enforcement Act (*Ovršni zakon - OZ; Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 112/12, 25/13, 93/14, 55/16, 73/17, 131/20, 114/22 and 6/24). The OZ lays down a procedure under which courts and notaries public enforce claims on the basis of enforcement and authentic instruments (enforcement proceedings), unless provided otherwise by a separate act.

## 2 Which authority or authorities are competent for enforcement?

Enforcement proceedings are conducted by courts, on the basis of enforcement instruments, and by notaries public, on the basis of authentic instruments.

The terms enforcement instrument and authentic instrument are defined in Articles 23 and 31 OZ, respectively.

The other parties to enforcement proceedings include the Financial Agency (*Financijska agencija*), i.e. the legal entity in charge of enforcement under the OZ and under the act regulating enforcement with respect to monetary funds, employers, the Croatian Pension Insurance Institute (*Hrvatski zavod za mirovinsko osiguranje*) and other bodies laid down by law.

## 3 What are the conditions under which an enforceable title or decision may be issued?

Courts conduct enforcement proceedings on the basis of enforcement instruments, which comprise:

1. enforceable court decisions and court settlements;
2. enforceable settlements referred to in Article 186a of the Civil Procedure Act (*Zakon o parničnom postupku*);
3. enforceable decisions of a court of arbitration;
4. enforceable decisions issued, and settlements reached, in administrative proceedings where they concern pecuniary claims, unless otherwise provided by law;
5. enforceable decisions and enforcement instruments issued by notaries public;
6. settlements reached before the courts of honour of Croatian chambers and settlements reached in mediation proceedings in accordance with the applicable law;
7. other instruments constituting enforcement instruments under law.

An enforcement instrument can be used if it lays down the creditor, the debtor and the claim in terms of its subject, type, scope and the time limit for its settlement.

If the enforcement instrument is a decision ordering the payment of a debt or performance of an action, it must lay down a time limit for voluntary compliance therewith; if the decision lays down no such time limit, the latter is set by the court issuing a court decision on enforcement.

### 3.1 The procedure

Enforcement proceedings on the basis of an enforcement instrument are brought by the enforcement creditor submitting a motion for enforcement to the court. The enforcement creditor may submit a motion for enforcement in person, as a party to the proceedings, or via a power of attorney. Enforcement proceedings may be brought ex officio if so provided by law.

Enforcement falls under the subject-matter jurisdiction of municipal courts (*općinski sud*), unless otherwise provided by law. Enforcement is carried out within the scope laid down in the court decision on enforcement.

A court decision on enforcement must indicate the enforcement/authentic instrument that forms the basis for enforcement, the enforcement creditor and debtor, the claim to be recovered, the means and subject of enforcement and other information relevant for enforcement.

### 3.2 The main conditions

A motion for enforcement must contain a request for enforcement indicating the enforcement/authentic instrument that forms the basis for enforcement, the enforcement creditor and debtor and their personal ID Nos, the claim to be settled, the means by which enforcement is to be carried out and, where necessary, the subject of enforcement. The motion for enforcement must include any other legally prescribed information required for enforcement.

A motion for enforcement on the basis of an authentic instrument must contain:

1. a request that the court order the debtor to settle the claim, with any related costs, within 8 days of being served the court decision on enforcement (3 days in the case of disputes involving bills of exchange or cheques);
2. request for enforcement.

To sum up, an enforcement or authentic document is a prerequisite for enforcement to be ordered.

## 4 Object and nature of enforcement measures

Subject of enforcement means the assets and rights that may legally be subject to enforcement in order to settle a claim. Enforcement in respect of a debtor's assets, i.e. their property, is ordered so that the enforcement creditor may have their claim settled.

### 4.1 What types of assets can be subject to enforcement?

A debtor's assets (money, immovable property, movables, securities, ownership shares) or the enforcement creditor's non-proprietary right (surrender or delivery of a movable asset, vacating or surrender of an immovable asset, return to work, etc.) may all be subjects of enforcement. The enforcement creditor may freely choose the subject of enforcement during enforcement proceedings.

Things outside commerce (*res extra commercium*) and any other objects defined as such by law cannot be subject to enforcement. Claims relating to tax arrears or unpaid duties cannot be subject to enforcement.

Facilities, weapons and equipment intended for defence, and facilities and equipment intended for the work of local and regional self-government units and judicial bodies, cannot be subject to enforcement.

Whether or not a certain object or right can be subject to enforcement, i.e. whether any restrictions apply to enforcement with regard to that object or right, depends on the circumstances at the time when the motion for enforcement was submitted, unless otherwise provided by the OZ.

## 4.2 What are the effects of enforcement measures?

The main consequence of enforcement is that it restricts the right of the debtor to dispose of their property.

Enforcement carried out on immovable and movable assets results in these assets being sold and the creditor being paid the amounts due.

Where enforcement is carried out against a debtor's monetary assets, these assets are seized and transferred to the creditor in the amount due.

## 4.3 What is the validity of such measures?

Enforcement steps are carried out until the end of enforcement proceedings, which terminate once the creditor has been fully paid or has withdrawn the motion for enforcement.

## 5 Is there a possibility of appeal against the decision granting such a measure?

The debtor has the right to:

- appeal the court decision on enforcement based on an enforcement instrument, or
- object to the notary public's decision based on an authentic instrument.

A timely and permissible appeal against a court decision on enforcement based on an enforcement instrument does not delay the execution of enforcement.

A timely and permissible objection against a notary public's decision based on an authentic instrument (to be submitted to the notary public, but decided on by a court) effectively becomes ordinary court proceedings in which the parties (creditor, now plaintiff, and debtor, now defendant) each have to prove their case in order to win the suit. If the conditions laid down by the OZ are met, the debtor has the right to delay enforcement.

## 6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?

The court orders enforcement by the means, and in respect of the items, laid down in the motion for enforcement. If different means of enforcement or different items in respect of which enforcement is to be carried out are available, the court will restrict enforcement, at the debtor's request, to only those means or items that are required for the claim to be settled.

One of the basic principles of enforcement proceedings is that the court conducting enforcement and security proceedings must safeguard the debtor's dignity by ensuring that the adverse effects of enforcement for the debtor are kept to the minimum.

Affording the debtor protection means not using or limiting the use during enforcement proceedings of means and items serving to forcibly settle the creditor's claim, and providing the debtor with specific procedural and material guarantees during and in connection with enforcement proceedings. This protection is reflected in the application of the principle of legality when identifying the conditions for the admissibility of enforcement, laying down the subject of and means for enforcement, and in respect of the procedure to be conducted with a view to the forced settlement of the creditor's claim.

With regard to enforcement in respect of immovable property, Article 91 OZ specifies the types of property that cannot be subject to enforcement.

With regard to enforcement in respect of movable property, Article 135 OZ specifies the types of property that cannot be subject to enforcement.

With regard to enforcement in respect of monetary funds, Article 173 OZ lays down maximum amounts, while

Article 172 lists the types of income that cannot be subject to enforcement.

Article 212 OZ lays down specific rules that apply to enforcement in respect of the monetary funds that are either exempt from enforcement or in respect of which enforcement restrictions apply. Articles 241 and 242 OZ lay down specific rules on exemptions and enforcement restrictions that apply to assets of legal entities.

Article 75 OZ provides for the protection of debtors who are individuals in the case of enforcement in respect of their monetary funds. Article 76 OZ provides for the protection of the activities of legal entities.

The provisions of the OZ laying down enforcement restrictions or exempting certain items from enforcement are the ones protecting the debtor in enforcement proceedings.

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