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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 of a judgment is understood to mean the fulfilment of the obligations imposed by the judgment on the parties to the proceedings, i.e. the parties perform the actions set out in the judgment to enforce it. Some judgments do not require any special enforcement: judgments on recognition and the suspension, modification or establishment of a legal relationship. The judgment may be enforced on the basis of the good faith of the parties, i.e. without enforcement measures, or by force. If the person against whom the judgment has been issued fails to comply with the judgment in good faith, the creditor seeking the judgment is entitled to apply to the court for the issue of an enforcement order and to submit it to a bailiff.

Bailiffs are persons authorised by the State who, at the creditor's request, can take actions by means of enforcement measures to enforce the judgment not being enforced in good faith.

The enforcement of judgments is governed by Part VI ('Enforcement Procedure') of the Code of Civil Procedure of the Republic of Lithuania, and Order No 1R-352 of the Minister for Justice of 27 October 2005 approving the instruction for the enforcement of judgments ('the Instruction'). Specific rules regulating the enforcement of judgments may also be laid down by other legal acts.

2 Which authority or authorities are competent for enforcement?

Judgments are enforced by bailiffs.

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

3.1 The procedure

The enforceable title issued on the basis of a judgment is submitted to a bailiff for enforcement by a person entitled to do so, i.e. the claimant or their representative. If the enforceable title is submitted to the bailiff by the claimant's representative, the law requires that the rights of the representative by way of assignment be enshrined in a power of attorney issued and formalised in accordance with the law, i.e. powers of attorney submitted by natural persons must be notarised, while the power of attorney submitted by the representative of a legal person may be approved by the relevant body of the legal person. If a lawyer or their assistant submits the enforceable title to the bailiff, the lawyer or their assistant must also provide the bailiff with a written contract with the client or another document setting out their rights and obligations, including the scope thereof. Enforceable titles for the recovery of money are distributed to bailiffs through the Bailiff Information System following the procedure laid down in the Instruction: pro rata to all bailiffs operating in the territory of activity, taking into account the categories of enforceable titles and the amounts to be recovered set out in the Instruction, and ensuring that a new enforceable title for recovery from the same debtor is assigned to the bailiff already enforcing recovery from that debtor, unless the new enforceable title is not applicable in the territory of

activity of that particular bailiff. Within three working days of receipt of the enforceable title or immediately in cases of urgent enforcement, the bailiff must check whether there are no obvious grounds for not accepting the enforceable title and initiating the enforcement proceedings.

3.2 The main conditions

The enforceable title may be submitted to the bailiff for enforcement by the claimant or their representative, or by the authority or the official who has issued the enforceable title. If the debtor is a natural person, the bailiff enforces the enforceable title in accordance with that person's place of residence, place of work or where their assets are located. If the debtor is a legal person, the bailiff enforces the enforceable title at the debtor's registered office or where their assets are located.

The enforceable title must be submitted within the limitation period applicable for enforcement submissions. Enforceable titles pursuant to judgments may be submitted for enforcement within five years of the judgment coming into effect. The time limit for submitting enforceable titles pursuant to judgments that are immediately enforceable starts from the first day after the judgment has been adopted.

The enforceable title is accepted for enforcement when the claimant pays the bailiff the administrative costs of the enforcement proceedings. Depending on the financial situation of the natural-person claimant, the bailiff may waive payment of all or part of the enforcement costs, or defer payment until the enforcement proceedings have been completed.

4 Object and nature of enforcement measures

Enforcement measures include:

1. Recovery from the debtor's funds and assets or property rights;
2. Recovery from the debtor's assets and money held by other persons;
3. Prohibiting other persons from transferring money or property to, or executing other obligations for, the debtor;
4. Confiscation of documents attesting to the debtor's rights;
5. Recovery from the debtor's salary, pension, grants or other income;
6. Confiscation from the debtor of certain items referred to in the judgment and their transfer to the claimant;
7. Administering the debtor's assets and using the proceeds for the purpose of recovery;
8. Obligation on the debtor to perform or refrain from certain actions;
9. Offsetting of counter-claims;
10. Other measures laid down by law.

More than one enforcement measure may be applied at the same time.

4.1 What types of assets can be subject to enforcement?

If the debtor is a natural person, the following assets are subject to recovery:

Mortgages and collateral, if the recovery is for the benefit of the mortgage creditor or collateral holder;

Money, property rights, securities, wages, salary, grants or other income or movable property belonging to the debtor;

Immovable property belonging to the debtor;

Agricultural land owned by the debtor, if the debtor's main business is agriculture;

The debtor's place of residence where they live.

If the debtor is a legal person, the following assets are subject to recovery:

Mortgages and collateral, if the recovery is for the benefit of the mortgage creditor or collateral holder;

Money, property rights, securities, manufactured goods, and other movable and immovable property not directly used or adapted for direct use in the production process, except for administrative premises;

Other assets;

Immovable property necessary for production, as well as raw materials and supplies, machinery, equipment, and other capital goods used directly in production.

4.2 What are the effects of enforcement measures?

Enforcement measures and procedures vary depending on whether a monetary or non-monetary obligation is being enforced, and on whether the debtor's funds, income or other assets are subject to recovery.

If a monetary obligation is being enforced and recovery is directed at the debtor's funds held by credit, payment or electronic money institutions, the bailiff will send those institutions – through the cash restrictions information system – an order to restrict the use of the debtor's funds or to compulsorily debit the debtor's funds to cover the debt and the enforcement costs.

If the bailiff finds that the debtor's funds or other assets are held by third parties (the bailiff is entitled to obtain this information, as well as information on whether the third parties are required to pay the debtor the funds or transfer other assets to the debtor), these funds are attached.

If a monetary obligation is being enforced and recovery is directed at the debtor's income, the bailiff will submit the enforceable title to the debtor's employer or to another person paying the debtor. A fixed proportion of the debtor's income is deducted from their salary and equivalent benefits until the outstanding amounts are recovered in full.

If a monetary obligation is being enforced and recovery is directed at the debtor's assets, the assets will be attached and sold. Recovery cannot be directed at the debtor's assets if the debtor provides evidence to the bailiff that the money can be recovered within 6 months or, in the case of recovery from the debtor's last place of residence where they live, within 18 months, by making deductions of the statutory amount from the debtor's income. Recovery may be directed at the debtor's place of residence where they live only if the amount to be recovered is greater than EUR 4 000. At the request of the debtor or members of their family, after an apartment or house has been made the subject of an attachment order to recover amounts not paid for energy and utility bills and other services, the court may rule that no recovery can be made from the last apartment, house or part thereof in which the persons in question need to live. In so doing, the court may take account of the financial situation and interests of children, disabled people and disadvantaged groups.

Attachment of a debtor's assets is a temporary prohibition or restriction of ownership or individual component of ownership (management, use or disposal) imposed on the debtor's assets.

Attachment may be carried out by a court or bailiff.

A court carries out an attachment of assets by means of a decision involving the implementation of temporary protective measures. The attached funds must not exceed the amount of the claim. The court may revoke such a decision at the request of the persons concerned or, in certain cases, at its own initiative. When the court has examined a case and rejected the claim, temporary protection measures remain in force until such time as its decision comes into effect, and if, after the court has applied temporary protection measures, the claim is met, the temporary protection measures apply until such time as its decision has been implemented.

A bailiff who is implementing an enforcement decision must, when carrying out an attachment of the debtor's assets, sign the attachment order. A bailiff may revoke an attachment order only if they carried out the attachment. The value of the debtor's property seized by the bailiff cannot substantially exceed the amount required to cover the amount to be recovered and the enforcement costs.

Liquidation of assets means the forced sale of the attached assets belonging to the debtor or collateral provider by auction, through companies engaged in the trade in or conversion of assets, their transfer to the claimant, their sale to a buyer suggested by the debtor, or any other liquidation procedure provided for by law. Depending on the reasons for attachment and the type of assets involved, the attached assets are liquidated by the bailiff, the State Tax Inspectorate offices or brokers and firms active in public trading in securities, in accordance with

the procedure established by law.

The debtor's immovable assets and other assets registered in accordance with the law with a value greater than EUR 2 000, as well as other movable assets with a unit value greater than EUR 30 000, are liquidated by auction. Other assets may be liquidated in other ways. The sale auction is conducted electronically.

The debtor is entitled to find a buyer for the assets to be sold before the auction starts. If the debtor does find a buyer for the assets, the assets are sold to the buyer found by the debtor. The assets may be sold to the buyer found by the debtor for an amount that is not less than the value of the assets indicated in the attachment order, or for a lower amount that is sufficient to cover the debts and the enforcement costs in full.

The liquidation of the attached assets extinguishes all attachments of those assets.

If enforceable titles are issued in respect of counter-claims of the debtor and the creditor, the bailiff will offset the amounts in accordance with the established procedure. If it is possible to recover the full amount by means of offsetting in accordance with the established procedure, no other enforcement measures are taken. Offsetting cannot be used in maintenance proceedings.

The specific requirements applicable to non-monetary enforcement of obligations are laid down by law.

When enforcing a judgement on the transfer of custody of children, the bailiff carries out the enforcement actions in the presence of the person to whom the child is transferred and a representative of the body responsible for protecting the rights of children. Protection of the child's rights must be ensured.

If the claimant is awarded certain items referred to in the judgment, the bailiff will confiscate those items from the debtor and transfer them to the claimant.

Only those persons named in the enforceable title can be moved into (or evicted from) residential premises according to the judgment. Police assistance may be requested, if necessary.

If a judgement requiring the debtor to perform or terminate certain actions not related to the transfer of assets or funds is not enforced, the bailiff will draw up a notice to that effect. The document is forwarded to the district court of the place of enforcement, which in turn orders the application of the consequences set out in the judgment (i.e. if the defendant has not implemented the judgment within the stipulated time limit, the claimant will be entitled to perform actions or take measures to ensure the termination of the actions at the defendant's expense and, at the same time, recover the necessary costs from the defendant,); if the consequences have not been set out in the judgment, the court will address the matter of amending the arrangements for the enforcement of the judgment.

If only the defendant can perform or terminate the actions referred to in the judgment and they fail to comply with the judgment, the defendant may be fined for the benefit of the claimant, and a new deadline for compliance with the judgment may be set. Payment of the fine does not release the debtor from the obligation to perform or terminate the actions referred to in the judgment.

4.3 What is the validity of such measures?

Enforceable titles pursuant to judgments may be submitted for enforcement within five years of the judgment coming into effect. The time limit for submitting enforceable titles pursuant to judgments that are immediately enforceable starts from the first day after the judgment has been adopted. Enforceable titles regarding reinstatement in employment may be submitted for enforcement within one month of the first day after the judgement has been adopted.

Depending on the decision in question, if periodic payments are being claimed, enforcement documents are valid for the entire period for which payments are awarded, and the time limit for them to be submitted for enforcement begins on any date on which a payment deadline expires.

Specific time limits may be set for the enforcement of decisions of officials or authorities that can be enforced under the compulsory procedure.

If the time limit for submitting an enforceable title is extended for reasons deemed by the court to be important,

the court may renew the extension, except in the case of exceptions provided for by law, where the deadline cannot be extended.

Enforcement measures taken by the bailiff will remain in force until they are lifted by the bailiff. If the legality of the bailiff's actions is contested, and the court finds that the appeal is well-founded or partly well-founded, the measures taken, or part thereof, may be annulled by the court hearing the appeal.

The attachment of assets or other temporary protective measures imposed by the court will remain in force until they are revoked (replaced by another measure) by the court that imposed them, or, in the event of an appeal, until they are annulled by a higher court.

The liquidation of the attached assets extinguishes all attachments of those assets.

See also reply to 3.2.

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

An appeal against the procedural actions taken by bailiffs may be lodged not later than 20 days from the date on which the person lodging the complaint became or should have become aware of the performance or refusal to perform the action in question, but not later than 90 days from the date on which the action in question was performed. The appeal is submitted to the bailiff. The bailiff must examine the appeal within five working days. If the bailiff refuses to grant the appeal in whole or in part, the appeal, accompanied by the bailiff's order, is forwarded to the district court within the jurisdiction of the bailiff's office.

Measures taken by the court may be annulled or modified by the same court or by a higher court in the event of an appeal.

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

See also reply to 3.2.

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