

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

Enforcement means that a judgement is given effect.

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

This depends on the request made. For instance, a hypothecary registration is made by the Director of the Public Registry after receiving an authenticated copy of the judgment together with a certificate from the registrar indicating that there has been no appeal from the judgment and the time for filing such an appeal has lapsed or that it is not possible to appeal from the judgment.

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

According to general law, the Code of Organisation and Civil Procedure (Cap. 12 of the Laws of Malta), the following are executive titles:

a judicial letter when the debt is certain, liquidated and due and not consisting in the performance of an act and where the amount of the debt does not exceed €25,000. This is regulated by Section 166A of the Code of Organisation and Civil Procedure;

judgments and decrees of the courts of Malta;

contracts received by a notary public in Malta, or before any other public officer authorised to receive the same, where the contract is in respect of a debt certain, liquidated and due, and not consisting in the performance of an act;

taxed bills of judicial fees and disbursements, issued in favour of an advocate, a legal procurator, a notary public, a court expert or other judicial referee or a witness, unless such taxed bills are impugned according to law;

awards of arbitrators registered with the Malta Arbitration Centre;

bills of exchange and promissory notes;

mediation agreements made enforceable by the parties in the mediation;

decisions of the Consumer Claims Tribunal.

There are also various other executive titles emanating from special laws, for instance, fiscal laws.

#### 3.1 The procedure

The acts by means of which, according to circumstances, the executive titles may be enforced are:

warrant of seizure of movable property;

warrant of seizure of immovable property;

warrant of seizure of a commercial going concern;

judicial sale by auction of movable or of immovable property or of rights annexed to immovable property;

executive garnishee order;

warrant of ejection or eviction from immovable property;

warrant *in factum*;

warrant of arrest of sea vessels;

warrant of arrest of aircraft;

warrant *in procinctu*.

If an executive title is brought into force by means of Section 166A, the applicant for the registration of a judicial letter which qualifies as an executive title shall present to the Registrar of the Court a legal copy of the judicial letter, including evidence of service, and a copy of any response received thereto, if any.

With regard to other executive titles, the procedure varies according to their nature. This can be found in the [Code of Organisation and Civil Procedure](#), Section 252 *et seq.*

#### 3.2 The main conditions

Conditions vary according to their nature. This can be found in the [Code of Organisation and Civil Procedure](#), Section 252 *et seq.*

### 4 Object and nature of enforcement measures

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

Movable property is subject to enforcement, including:

stocks and shares in commercial partnerships;

licences issued by any competent authority as may be established by regulations made by the Minister responsible for justice;

insurance policies;

credit securities and any intellectual or industrial property right.

However, not subject to seizure are the following:

such clothes for daily wear, bedding and such utensils and furniture as are considered reasonably necessary for the decent living of the debtor and his family;

personal documents and books relating to the profession of the debtor, of his wife or of his children;

the registers and minute-books of notaries public;

tools and implements necessary for the instruction in or the exercise of any science or of any art of the debtor, of his wife or of his children;

animals and tools required for agriculture and any fruit either cut or not yet separated from the ground;

aircraft, exclusively appropriated to a state service, including the postal service, but excluding commercial service;

sea vessels wholly chartered in the service of the Government of Malta;

sacred vestments and vessels which are used in a consecrated church, or belonging to a priest, a religious order or any member thereof;

any property of any member of the Police Force or of the Armed Forces of Malta being arms, ammunition, equipment, instruments or clothing used by him in the discharge of his duties.

Immovable property, commercial concerns, ships, vessels and aircraft are subject to seizure.

Garnishee orders cannot be issued on:

any salary, or wages (including bonus, allowances, overtime and other emoluments);  
any benefit, pension, allowance or assistance mentioned in the Social Security Act or other allowance of any person pensioned by the Government;  
any charitable grant or donation made by the Government;  
any bequest expressly made for the purpose of maintenance, if the debtor has no other means of subsistence and the debt itself is not due in respect of maintenance;  
any sum due for maintenance whether awarded *officio judicis*, or by public deed if the debt itself is not due in respect of maintenance;  
moneys which have been made available to the debtor by deed of loan for the building, construction and maintenance of houses intended as a main dwelling place for the debtor;  
overdraft banking facilities excluding credit cards by means of which commercial going concerns run by the debtor are being operated;  
bank guarantees and letters of credit.

#### **4.2 What are the effects of enforcement measures?**

The effect is that executive titles are enforced and through them one takes one's property according to law.

#### **4.3 What is the validity of such measures?**

It depends on the case but in general it can be said that Executive Warrants remain valid until the title, on the basis of which they were issued, remains enforceable. The garnishee order cannot be extended and remains in force until it is annulled by court decree.

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

A person against whom an executive warrant is issued or any other interested person, may file an application in that court issuing the act requesting the annulment of the executive act, either in whole or in part only. The application is to be notified to the opposing party who, within ten days, shall file a reply containing all the submissions they may wish to make. The court shall rule on the application after hearing the parties. An appeal from said decree may be filed by means of an application within six days from the date on which the decree is read out in open court.

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

Judgments given by the Superior Courts may become enforceable again after ten (10) years from the date when the judgement or decree may have been enforced. Judgments of the Inferior Courts or of the Small Claims Tribunal may become enforceable again after five years have elapsed. Executive titles by means of a contract when the debt is certain, liquidated and due, actions under section 166A of Cap. 12 of the Laws of Malta, and bills of exchange and promissory notes may be made enforceable again after three years have elapsed. They are rendered enforceable again by means of an application before the competent court. The applicant shall also confirm on oath the type of debt or the claim for which they are seeking enforcement and that the debt or part of it is still due. In addition to this, in these circumstances a thirty (30) year prescription applies but this time limit may be interrupted by means of the abovementioned application.

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