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Judicial auctions

A judicial auction is a proceeding through which a public auction of the debtor's assets is arranged with the purpose of raising the sum of money needed to satisfy a creditor's claim. The auction may be arranged by a judge, or his or her delegate, or a competent authority, or other public or private entities (authorized according to the legislation of individual countries).

Definition

A judicial auction is normally preceded by a seizure, this is the act through which the creditor or the competent authority identifies and secures the assets suitable to satisfy the claim. Immovable and movable property can be seized, as well as credits which the debtor holds vis-à-vis a third party. In the case of credits, however, the enforcement proceedings do not terminate with the sale but with the allocation of the debtor's credit to his or her creditor.

There are different types of judicial auctions in the EU countries, whose national law provide for the relevant legal framework. In some EU countries a judicial auction can be held on line, thus avoiding participants appearing personally before the judge or in the Court or in other public or private entities.

A judicial auction – which is usually directed by a judge, who can assign the sales operation to a third party (an independent professional or a company specifically authorised to perform this task) but can also be entirely managed by other subjects (e.g. bailiff, or other enforcement authority) – is normally preceded by appropriate advertisements.

The national pages will start having data added shortly. If the flag on the right of this page for the relevant country is greyed out then the information has not yet been added.

Glossary of terms related to judicial auctions

Award – the asset for sale is awarded to the person who has offered the highest price at the end of the judicial auction.

Basic price – value of the debtor's seized properties (real estate or personal property) that have been foreclosed by the creditor or the competent authority.

Bid in competition with other people/companies – competitive bidding for an asset at a judicial auction.

Counter bid – a new bid for an item made by a person/company in a judicial auction, at a higher price – to attempt to secure the purchase.

Deposit – to attend a judicial auction, a person must pay a deposit before the auction starts. The person will get the deposit back at the end of the auction, if they do not buy the asset for sale.

Expert who estimates the value of seized assets – expert (in the relevant market) usually used to estimate the value of assets. The expert must give the asset's fair market value, taking into account the general situation on that market and the condition it is in.

Person or company in charge of the sales operation – person or company responsible for giving information to people interested in buying the asset, advertising the sale of it, carrying out the bidding procedure during the auction, etc.

Possibility of previewing the asset for sale – chance for potential buyers to see the item in question, and the condition it is in (sometimes via photos, other times in person).

Sale advertisement – to sell a seized asset at a judicial auction, the judge or their delegate or the competent authority must advertise the sale (how and when the asset will be sold). Judicial auctions are usually advertised on the internet, but also often in newspapers.

Seized asset – debtor's property (real estate or personal property) that is foreclosed by a creditor or the competent authority if the debtor does not voluntarily pay their debt. To foreclose an asset, the creditor or the competent authority must send the debtor a seizure order. This is an act in which the creditor or the competent authority identifies the asset that can be used to pay the debt.

Transfer – the act transferring ownership of the sale asset from the debtor to the buyer.

List of the EU countries in which the on-line judicial auction is already in place

Austria (in cooperation with Germany)

Croatia

Estonia

Finland

Germany (in cooperation with Austria)

Hungary

Italy

Latvia (only for enforcement procedures relating to immovable assets)

Portugal

Spain

The Netherlands (only for enforcement procedures relating to immovable assets)

Slovenia (only for enforcement procedures relating to immovable assets).

Last update: 14/04/2022

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