

## HOW TO ENFORCE A JUDGMENT IN BULGARIA

### **(A) What is the applicable law?**

- (a) Domestic judgments: CIVIL PROCEDURE CODE (CPC)
- (b) Foreign judgments: CIVIL PROCEDURE CODE (CPC), PRIVATE INTERNATIONAL LAW CODE, Council Regulation (EC) No 44/2001, international treaties

### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Convention 1968;
- 2005 Hague Convention on Choice of Agreements;
- 2007 Lugano Convention;
- Other bilateral treaties.

### **(C) What types of judgments in commercial matters are enforceable?**

- (a) The effective court decisions, i.e. those that have not been appealed or those that have reached a court of last instance.
- (b) the suing decisions of the courts of appeal (second instance).
- (c) the decisions and rulings of the arbitrary courts and the concluded before them agreements on arbitrary cases.

### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

The involvement of a lawyer is not always necessary to enforce a judgment. The law allows the parties' representatives by proxy to be:

1. the lawyers;
2. the parents, the children, or the spouse;
3. the legal-advisors or the other employees who have degree in law at the institutions, enterprises, legal persons or of the sole entrepreneur;
4. other persons, envisaged by a law.

#### **(E) Is a security for costs needed?**

No, this is not necessary.

#### **(F) Which court is the competent court?**

The court which has jurisdiction by kind and by location to hear the case.

**Regarding jurisdiction by kind** - all civil cases, except for those within the jurisdiction of the district court

as a first instance, shall be under the jurisdiction of the regional court.

**Regarding jurisdiction by location** – The claim shall be filed at the court, within which area the permanent

address or the seat of the defendant is located (this is the general jurisdiction by location). In view of certain specificities about the personality of the debtor, the law also establishes a local jurisdiction other than the usual. In the case of property - the District Court in whose district the property is located shall have jurisdiction.

The request for the issuance of a writ of execution on the ground of the decisions of the courts usually shall be submitted before the court, which hear the case as a first instance.

The request for the issuance of a writ of execution on the ground of the decisions of the local arbitrary courts and the concluded before them agreements on arbitrary cases shall be submitted before the district

court, within which region is the permanent address or registered office of the debtor.

**(G) Can the debtor oppose to the enforcement?**

Yes, the debtor may oppose the enforcement by claim, but this claim of the debtor may be founded only on facts which occurred after the end of the court investigation within the procedure, on which the execution ground was issued. This action does not suspend the enforcement unless the court orders a suspend at the request of the debtor.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, by protective (security) measures, which shall be allowed by the competent court.

**(I) How do you secure the effectiveness of an immovable property?**

By impose injunction on the property owned by the debtor by securing a future or pending claim.

**(J) Is there a Bailiff in your jurisdiction?**

Yes, there are State Bailiffs (SBs) and Private Bailiffs (PBs). The same deadlines apply to the SBs and the

PBs, with the SBs acting at the level of the District Court and the PBs at the level of the Regional Court. SBs

receives a salary from the state budget, while PBs do not receive money from the state, but are self-supporting,

i.e., PBs is a free profession.

**(K) Can one freely choose the person of the bailiff?**

Only the local jurisdiction of the bailiff should be taken into account. So, the competent bailiff is those in

whose district is located some of the following:

- the immovable property, on which enforcement is directed;
- the movable property, when the delivery of the movable property is to be effected by the debtor;
- the permanent or current address or debtor's seat.

Once the local jurisdiction has been taken into account, the creditor can choose the bailiff from the relevant district to initiate enforcement proceedings, i.e., whether it should be a SBs or a PBs. Usually the collection rate of PBs is higher than that of SBs.

**(L) How much does this cost?**

For the initiation of the enforcement proceedings, the claimant must pay fees in advance for the bailiff's enforcement actions, which are subsequently charged to the debtor and added to the debtor's debt, or in other words they are collected by the debtor.

The costs of a private bailiff are statutorily defined in the Tariff of Fees and Costs to the Private Bailiffs Act, which specifies the amount of ordinary fees (for enforcement actions) and proportional fees where a monetary claim is involved (representing a percentage of the creditor's claim).

The costs of the state bailiff shall be determined in Article 53 of the Tariff of State Fees to be Collected by the Courts under the CIVIL PROCEDURE CODE.

**(M) In which field with they work?**

The bailiff's sphere of activity mainly includes the execution on movable property, immovable property (forced sale of immovable property at auction, entry to an estate, etc.), collection of monetary claims, etc.

**(N) How do they work?**

Regarding monetary claims, the bailiff has the right to freeze debtor's bank accounts, the debtor's salary or any amount that the debtor has to collect from a third party. The bailiff has the right to access the debtor's immovable property (home, hotel, or other property of the debtor), to inventory that property, if necessary - may appoint a caretaker (security) of that property. He may request police assistance if resisted. He is also entitled to inventory movable property owned by the debtor (cars, valuables, etc.). The bailiff organizes and makes public sales - auctions of the seized (frozen) property and assets.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, if he has asked the court to award legal or agreed interest, if any, on the claim (principal). In this case, interest shall be added to the principal (main) claim upon judgment and shall accrue until final payment. The legal interest rate is equal to the base rate of the Bulgarian National Bank (BNB) for the period of delay, increased by 10 percentage points.

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