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Slovenian

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**Judicial auctions**

Slovenia

**1. Publication and determining prices for the sale of seized assets**

Movable and immovable property is sold at public auctions. It is not possible to hold judicial auctions online in Slovenia because the Slovenian enforcement laws do not (yet) allow online auctions.

**Movable property**

Enforcement against movable property is executed by means of the seizure and evaluation of the property, its sale, and payment of the proceeds of sale to the creditor (Article 81(1) of the Claim Enforcement and Security Act (*Zakon o izvršbi in zavarovanju*), hereinafter: ZIZ).

Seizable property includes property in the debtor's possession as well as debtor's property in the creditor's possession. Debtor's property in the possession of third parties may be seized with the third party's consent (Article 83 of ZIZ).

Upon seizure, a creditor obtains a lien on the seized property (Article 87 of ZIZ).

**Expert evaluation of seized assets.** The property seized is evaluated on seizure, unless this evaluation cannot take place straight away to the special value of the property. The evaluation is made by the enforcement agent who executed the seizure. On request and with the cost paid by a party, the evaluation can be made by a court expert selected by the party (Article 89 of ZIZ). The sale of seized property may take place only after the decision of enforcement becomes final, unless the debtor consents to the sale of the property earlier or the property is perishable or if there is a risk that the value of the seized property would significantly drop (Article 92 of ZIZ).

The seized property is sold at a public auction or under a direct contract between the buyer and an enforcement agent or an individual engaged in commission transactions. The manner and the date of sale of the property is determined and noted by the enforcement agent in the seizure record immediately after the seizure, taking into account the principle that the best possible price is to be obtained (Article 93 of ZIZ). If an enforcement agent decides on a public auction, the date and the place of the public auction is added to the record. An enforcement agent informs the parties of the manner and the date of sale of the property by a special notice served on the creditor and the debtor (Article 82 of the Rules on the performance of bailiff services (*Pravilnik o opravljanju službe izvršitelj*)).

**Publication of sale.** If an enforcement agent decides that property is to be sold at a public auction, the public auction is announced on the noticeboard and on the website of the competent authority that issued the decision on seizure. The enforcement agent must request that the announcement of public auction also be published in an official register if such a register exists. If proposed by a creditor or debtor, an enforcement agent may also announce a public auction in the media upon payment of costs by the party seeking the public auction. An announcement of public auction must specify the place, date and time of the auction, state and describe the property to be sold and state where the property can be viewed before the auction (Article 89 of the Rules on the performance of bailiff services).

**Option to view assets being sold.** An enforcement agent must use the announcement of public auction to specify the place, date and time of the auction, describe the property to be sold, and state where the property can be viewed before the auction (Article 89 of the Rules on the performance of bailiff services).

**Deposit.** Before a public auction starts, an enforcement agent must determine if the nature and the value of the property is such that participants in the auction be required to pay a deposit, which may be no higher than 10 % of the starting price for the property.

**Person or company managing the sale.** A public auction is conducted by an enforcement agent who may, at own cost, authorise an auctioneer to bid if necessary, in terms of the amount and quality of the property. The auction is open to the public (Article 92 of the Rules on the performance of bailiff services).

**Starting price.** At the first auction, seized property may not be sold below its assessed value. If the assessed value is not reached at the first auction, an enforcement agent conducts a second auction if proposed by a party and in the second auction the property may be sold below its assessed value but at not less than a third of that value (Article 94 of ZIZ).

**Allocation.** At least 15 minutes after an auction starts, an enforcement agent invites the auction participants to make offers (bidding). The auction continues until all interested participants have made their bids. An enforcement agent gives the property to the highest bidder if no higher bid is made after making two calls to participants for a higher offer. If the buyer does not pay the purchase price by the end of the auction, the enforcement agent may sell the property to the next highest bidder if the creditor agrees by signing the Record of Auction. If the creditor is not present at the auction, the enforcement agent may sell the property immediately to the next highest bidder if their bid is at least 50 % of the best offer but higher than the starting price; otherwise, the enforcement agent offers the property for bidding again during the same auction. The previous highest bidder may no longer participate in the repeated bidding.

**Transfer.** A buyer must pay the purchase price and take possession of the property immediately after the auction is completed. An enforcement agent must provide the buyer with a document with information on the sale and information kept in a register, if a register of sold property is kept. On the basis of this document, the enforcement agent requests that all competent authorities keeping a register delete any encumbrances and/or prohibitions on the sale of the property, and register the new owner in cases where an ownership rights are recorded in the register. An enforcement agent may transfer the property to the buyer even before the purchase price was not paid if permitted to do so by the creditor, at its own risk, for the amount the creditor is entitled to of the purchase price. If the buyer does not pay the purchase price and the creditor does not consent to property being handed over, the enforcement agent may sell the property to the next best bidder. The buyer acquires property free of all encumbrances and becomes the owner of the property even when the debtor was not the owner of the property. The buyer does not have the right to a guarantee against defects of the property (Article 96 of ZIZ).

**Immovable property**

Enforcement against immovable property takes place by registering the enforcement decision in the Land Registry, determining the value of the immovable property, selling it, and paying the creditor from the proceeds of sale (Article 167 of ZIZ).

**Expert evaluation of seized assets.** The value of immovable property may be determined by a court even before the decision on enforcement becomes final. The value of immovable property is determined by a court on the basis of an evaluation of a court expert, in accordance with the market value applicable at the time of evaluation. When determining the value, any possible reduction of the value because of a particular right, e.g. easement (Article 178 of ZIZ), which may arise after the sale is taken into account. The value of immovable property is determined by a court decision against which an appeal is allowed (Article 179 of ZIZ).

**Publication of sale.** After a decision determining the value of immovable property becomes final, the court issues an order for the sale of the immovable property. In this order, it determines the manner and the conditions of the sale, as well as the time and the place of the sale if the immovable property is to be sold at an auction. The sale of immovable property takes place after the decision on enforcement and the decision on determining the value of the immovable property become final. The order for sale is announced by a court on the court's noticeboard and on its website as well as via other typical local means. An order for sale of agricultural land is announced by a court on the noticeboard of the administrative unit where the immovable property is situated and it can also be announced on the website of that administrative unit. The creditor may publish the order on sale of immovable property in the media. The costs of publication are charged to the creditor. At least 30 days must pass from the time the order for sale is announced on the noticeboard until the day of the sale. The court serves the order for sale on the parties, the lien creditor, other participants in the proceedings who have a registered pre-purchase or redemption right, and on the competent administrative authority (Article 181 of ZIZ).

As a general rule, immovable property is sold at a public auction conducted by a court on the court's premises, unless the judge decides otherwise. Creditors, lien creditors and creditors of land debt may, throughout the enforcement proceedings until the order for sale is issued, agree that the immovable property be sold by collecting binding offers or under a direct offer (Article 183 of ZIZ).

An order for sale of immovable property includes:

- a detailed description of the immovable property, including fixtures and fittings;
- an easement building right and encumbrances in rem which the buyer must accept;
- the value of the immovable property as identified by the court in its decision;
- the price for which the immovable property may be sold;
- the deadline by which the buyer must pay the purchase price;
- the manner of sale; and
- the amount of the deposit to be paid by the bidder (Article 184 of ZIZ).

**Option to view assets being sold.** A court may allow a person interested in buying immovable property to view the property upon request and at own cost. The method and the manner of viewing and any presence of an enforcement agent is determined by the court in the order for the sale of the immovable property (Article 176 of ZIZ).

**Deposit.** Public auctions may be attended by those who paid a deposit in the amount of one-tenth of the determined value of the immovable property at least three working days prior to the auction. The creditor, upon whose proposal the court had allowed the auction, is exempt from paying the deposit, as is a lien creditor or a creditor of land debt if their claims exceed the value of the deposit and if the deposit could be covered from the purchase price with regard to their payment priority order and the determined value of the immovable property. The deposits of bidders whose offers were not accepted are repaid to their bank accounts within 15 days after the public auction is completed or after the proceedings for opening offers are completed, unless otherwise provided by the law (Article 185 of ZIZ).

**Starting price** At the first sale, immovable property may not be sold for less than 70 % of its determined value. If the immovable property is not sold at the first sale, the court announces a second sale at the creditor's proposal where the immovable property may not be sold for less than half of its determined value. There must be at least 30 days from the first to the second sale. By giving a statement on the record at the court where enforcement proceedings are taking place or at any other court, the parties, the lien creditor or the creditors of land debt may agree that the immovable property be sold at the auction for less than 70 % of its determined value at the first sale or for less than half of its determined value at the second (Article 188 of ZIZ).

**Allocation.** When a court determines that the conditions for sale are met, it announces that the auction will commence. The auction lasts as long as bidders raise their bids. A bidder is bound by its bid until a higher bid is made (**counter offer**). Upon the request of one or more creditors, the court may allow a short break for the participants' consideration. The auction is completed when bidders do not offer a higher price after the judge has twice called on them to do so. When the auction is finished, the court identifies which bidder offered the highest price and declares that the immovable property be allocated to that bidder (**allocation** of the immovable property). The court issues a decision on the allocation of the immovable property which is served the parties served with the order for sale and all auction participants. There is no appeal against the decision on allocation. Irregularities at the auction may be addressed in an appeal against the decision on the allocation of the immovable property to the buyer (Article 189 of ZIZ).

**Paying the purchase price.** After allocation (assignment), the buyer must pay the purchase price within the deadline set in the order of sale (Article 191 of ZIZ). This deadline may be no later than six months after the date of the sale, irrespective of whether the purchase price is paid in one payment or in instalments (Article 184 of ZIZ).

**Transfer.** After the decision on allocation is issued, the purchase price is paid and the court issues a decision by which the immovable property is handed over to the buyer (transfer). After this decision is final, the buyer's ownership right is registered in the Land Register, and rights and encumbrances are deleted, according to the decision on the allocation. In the decision, the court also decides by when the debtor must move out of the family house or apartment or empty business premises. The decision on handing over the property is also an enforceable title for vacating and handing over the immovable property, and it becomes enforceable after it becomes final (Article 192 of ZIZ).

## **2. Third parties conducting the sale**

### **Movable property**

Movable property is sold at a public auction by an enforcement agent who may, upon own costs, authorise an auctioneer for bidding if necessary, based on the amount and quality of the movable property. The sale at the auction is public (Article 93 of ZIZ and Article 92 of the Rules on the performance of bailiff services).

Movable property may also be sold by direct agreement between a buyer and an enforcement agent or through an individual engaged in commission transactions. The manner and the date of the sale of the property is determined and noted by an enforcement agent in the seizure record immediately after the seizure, taking into account the principle that the most favourable redeeming value is to be obtained (Article 93 of ZIZ).

### **Immovable property**

Public auctions of immovable property are conducted by judges.

## **3. Types of auctions to which rules may not fully apply**

Slovenian law does not recognise any other types of auctions. There are different ways of selling movable and immovable property. Movable property may be sold under a direct contract between a buyer and an enforcement agent or an individual engaged in commission transactions instead of at a public auction (Article 93(1) of ZIZ). Immovable property is sold at a public auction if creditors, lien creditors and creditors of land debt do not agree by the time an order for sale is issued that:

the immovable property is to be sold by collecting binding offers; or

the immovable property is not sold under a direct contract within a certain period of time (Article 183 of ZIZ).

#### **4. Information on national property registers**

In Slovenia, there are the following property registers:

Land Registry for ownership rights and other rights in rem on immovable property;

Register of motor vehicles;

Slovenian Register of Shipping;

Register of Aircraft;

Register of book-entry securities;

Register of liens on movable property;

Register of bank accounts;

Register of recipients of salaries and other personal income (for example, pensions).

These registers are kept electronically. A specific institution is responsible for each one.

Access to these registers is made available to anyone demonstrating a legal interest (Article 4(6) of ZIZ). A creditor may demonstrate a legal interest by presenting an enforceable title (for example, an enforceable judgment), by which the debtor was ordered to pay the creditor's claim. In such a case, the creditor may request information on the debtor's property from the operator of the register. Courts have electronic access to many of these registers.

To obtain information from these registers, it is not necessary to pay court fees, however some operators of these databases (registers) may request that creditors pay a small fee (for example, the Health Insurance Institute of Slovenia (*Zavod za zdravstveno zavarovanje*), which maintains the register of payers of salaries and other personal income (such as pensions) requires a payment of EUR 4.00 to obtain information on a debtor's employment). The payment may also be made electronically.

#### **5. Information on databases helping creditors find assets and claims of debtors**

An operator of a database must, under Article 4(6) of the ZIZ, convey information on debtors' assets to creditors upon their request, when the creditor has demonstrated a legal interest (for example, an enforceable title). These operators are:

The Health Insurance Institute of Slovenia conveys information on payers of salaries and other personal income (for example, pensions);

The Agency of the Republic of Slovenia for Public Legal Records and Related Services (*Agencija Republike Slovenije za javnopravne evidence in storitve*) (AJPES) provides information from the bank accounts register;

The Central Securities Clearing Corporation (*Centralna klirinško depotna družba d.d.*) (KDD) conveys information from the book-entry securities register;

the court maintaining the Court Register conveys information on shares in undertakings and on other participation in legal entities. Access to the court register is also available electronically through its website;

the court maintaining the Land Register provides information on immovable property over or concerning which a debtor has a property right;

The Ministry of the Interior provides information from the records of registered motor and trailer vehicles;

The Slovenian Maritime Administration provides information from the Register of Boats (boats smaller than 24 m);

The Civil Aviation Agency provides information from the register of aircraft.

In most cases, a creditor can access a register by requesting information on the debtor's assets from the register's operator. A creditor may access certain registers (for example the Court Register) electronically (via website).

Representation by a lawyer is not necessary to obtain information on debtors' assets and taxes to the State are not payable. Certain operators of databases do request a small fee (for example, the Health Insurance Institute of Slovenia) of EUR 4.00 for information on debtors' employment. The fee may be paid electronically.

#### **6. Information on on-line court auctions**

Slovenian enforcement law does not yet recognise online court auctions.

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