

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

Enforcement is a civil non-litigious procedure through which the state exercises the fulfilment of obligations included in court and notary decisions and other documents defined by law by applying coercive measures.

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

Enforcement is ordered and executed by the court, the notary public, or other bodies and persons, in particular the following entities:

- a) the independent court bailiff,
- b) the regional court bailiff,
- c) the deputy independent court bailiff,
- d) the deputy regional court bailiff,
- e) the bailiff candidate.

The bailiff's procedure - as a civil non-litigious procedure - is identical to that of the court.

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

An enforcement order may be issued if the enforceable decision contains an obligation (penalty), is final or its interim execution has been ordered, and the deadline for performance has passed. Based on a settlement approved by the court, an enforcement order may be issued even if an appeal has been lodged against the approving order. This provision also applies to agreements approved by a notary public with the same effect as a court settlement. An enforcement order may also be issued on the basis of a judgement delivered in a procedure under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure even if an appeal has been lodged against the judgement. An enforcement order may not be issued based on an order for payment if the clause rendering it final states that enforcement is not permitted regarding the subject of the claim.

A special rule applies to the recovery of maintenance, where enforcement can be authorised for amounts overdue by more than six months if the party seeking enforcement considers it likely that the maintenance debt is attributable to malicious conduct by the debtor or if a sound reason is provided for failure to validate the claim. When enforcing foreign decisions, the court also examines whether enforcement is allowed by law, international convention, reciprocity, or EU legislation.

#### 3.1 The procedure

Enforcement may be ordered by means of an enforcement order. In certain cases, this is not a formal decision (but instead takes the form of an enforcement sheet or enforcement clause); in other cases, it takes the form of an order. The court or notary public issues the enforcement order at the request of the party seeking enforcement. The application for enforcement is to be submitted in the necessary number of copies using the enforcement order form. In procedures ordering payment, the application can also be submitted electronically. The application generally has to be submitted to the court or notary public proceeding in first instance. However, in certain cases Act LIII of 1994 on Judicial Enforcement ('Judicial Enforcement Act') also sets forth other rules regarding jurisdiction, e.g. for foreign decisions enforcement may be ordered by the district court at the seat of the regional court with competence according to the debtor's place of residence or principal place of business or, in absence of such, at the place of the asset subject to enforcement. In Budapest this is the Central District Court of Budapest (*Budai Központi Kerületi Bíróság*).

The application for enforcement must include information on the parties, the enforceable decision, the claim to be enforced, and as much information as possible on the debtor's assets that may be subject to enforcement.

The court or notary public immediately – no more than 15 days after receipt – examines the application in order to establish whether the case should be referred, rejected without examining the merits, or (with the exception of parties with legal representatives) returned with a request for missing information; the required measures will then be put into place. A decision will be made within 15 days of its receipt or, if missing information was requested, within 15 days of the information being submitted. If the application is justified, the enforcement order will be issued; if not, enforcement will be denied.

#### 3.2 The main conditions

See point 2.

### 4 Object and nature of enforcement measures

Coercive measures restrict the debtor's financial and personal rights. Financial measures can be applied by the court and court bailiff; measures against the person can be applied by the police on the basis of a measure of the court or court bailiff. The following are the most important financial coercive measures:

- attachment of wages and other emoluments,
- seizing and selling movable property,
- seizing funds managed by a financial institution and blocking bank accounts,
- seizing the debtor's claims against third persons,
- seizing and selling immovable property,
- imposing penalties and fines.

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

The following can be subject to enforcement:

- the debtor's wages, pension, or other emoluments (though certain exemptions apply to these),
- funds managed by a financial institution (the law provides an exemption from enforcement to natural persons up to a certain amount),
- movable property (however, essential goods that are exempted from enforcement by law may not be seized, e.g. essential items of clothing, furniture for the number of people in the debtor's household, medication required for the debtor's illness, etc.),
- the debtor's claims against third persons or the debtor's business shares,
- immovable property, regardless of its type, use, rights or encumbrances, and facts registered in the land register (however, immovable property that cannot be considered to form part of the debtor's assets during liquidation proceedings is exempt from enforcement).

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

Enforcement measures fundamentally restrict the debtor's right to dispose of its assets.

When movable property or a bank account is subject to enforcement, the debtor's right to dispose of the assets is terminated. If the movable property seized is impounded, it will also be removed from the debtor's possession. If immovable property is seized, the debtor may dispose of and sell the property, though it will remain encumbered with the right of enforcement.

If the debtor or any other person present displays physical resistance during the execution of an enforcement action, the bailiff will turn to the police, which may employ coercive measures against the person in order to terminate the resistance.

Any person actively hindering the proceedings of the bailiff (with force) can be held criminally liable. It is also a crime to remove a seized item from enforcement or remove the seal applied in the course of enforcement, or to break into the locked room used to store the seized, locked, or impounded item (offence of breaking a seal).

The court will impose a fine on the debtor or the person or organisation obliged to participate in the enforcement procedure if they fail to fulfil the obligations resulting from enforcement as defined by law or if they engage in conduct that impedes the enforcement measures.

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

The measures remain valid until the enforcement is successful or the measures are terminated by the bailiff or the court, or by law. Enforcement measures can be executed within the statute of limitations set forth by civil law (generally 5 years), which term starts when the final court decision is passed.

Enforcement may not be ordered for an application submitted after the limitation period has expired, and previous enforcements may not be restarted.

Similarly to court proceedings initiated in the interest of pursuing a claim, the limitation period is interrupted by any enforcement actions, following which the limitation period recommences.

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

a) Withdrawal of the enforcement sheet and deletion of the enforcement clause. If enforcement was ordered through the issuance of an enforcement sheet or clause, the sheet may be withdrawn and the clause may be deleted as a legal remedy if the enforcement order should not have been issued. The debtor or the party seeking enforcement may apply for the withdrawal of the enforcement sheet or the deletion of the enforcement clause, and the court may also order this *ex officio*. The application must be submitted to the court or notary public that ordered enforcement. There is no deadline for submitting the application: it may be submitted at any time. If the application is granted, an order is issued for the withdrawal of the enforcement sheet or the deletion of the enforcement clause; the order may be appealed.

b) Appeal against the enforcement order. An appeal may be lodged by the debtor or the party seeking enforcement against a formal order authorising enforcement. The appeal must be submitted to the court that ordered enforcement but addressed to the appeal court. The appeal court has competence in evaluating the appeal. If the merits of the order issued by the court that ordered the enforcement are correct, the appeal court will uphold the order; otherwise it will amend the order. If it finds a procedural irregularity, the appeal court will repeal the order and instruct the court that ordered enforcement to pass a new decision.

c) Appeal against an order denying issuance of an enforcement order. The party seeking enforcement may lodge an appeal against an order denying issuance of an enforcement order. The appeal must be submitted to the court or notary public that ordered enforcement but addressed to the appeal court. The appeal court has competence in evaluating the appeal. If the merits of the order issued by the court that ruled on enforcement are correct, the appeal court will uphold the order; otherwise it will amend the order. If it finds a procedural irregularity, the appeal court will repeal the order and instruct the court or notary public that ruled on enforcement to pass a new decision.

d) The bailiff performs the enforcement coercive measures independently after enforcement has been ordered; there is no need for the court's authorisation. A separate legal remedy against measures by the bailiff, known as an enforcement objection, is available. Enforcement objections may be lodged by the debtor, the party seeking enforcement, or another interested party. If the court accepts the objection, it will annul the bailiff's unlawful measures or, if the bailiff failed to act, the court will instruct the bailiff to act. Otherwise, the court will reject the objection. The objection must be submitted to the bailiff.

e) In addition to the above possibilities for remedy, enforcement can also be terminated. The Court will issue an order terminating enforcement at the request of the party seeking enforcement provided termination does not infringe upon the rights of others or unless otherwise provided for by law. Enforcement will also be terminated if the debtor fulfils the obligation, for example. The court will also issue an order terminating enforcement if it has established on the basis of public documents that the enforceable decision has been overturned by a final decision.

f) In enforcement proceedings, it is also possible for a third party with a claim to an asset seized during enforcement based on property rights or other rights that prevent sale as part of the enforcement procedure to initiate enforcement claim proceedings against the party seeking enforcement in order to secure the asset's release. If the court grants the application, it will release the asset concerned from seizure.

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

##### **Suspension of enforcement:**

The court that ordered enforcement may - in exceptional cases - order the suspension of enforcement at the debtor's request if the debtor is able to substantiate the legitimate circumstances justifying suspension, and if the debtor has not been previously fined during the enforcement procedure.

If necessary when making the decision on suspension, the court may hear the parties.

The court will especially consider the following as legitimate circumstances that justify suspension: the number of persons the debtor is required to support and the number of persons actually supported by the debtor, the long-term or serious illness of the debtor or the debtor's dependants, and natural catastrophes that occurred during the enforcement procedure and affected the debtor.

If immovable property is subject to enforcement, suspension can be ordered on one occasion at the request of the debtor, and for no more than 6 months.

##### **Payment in instalments:**

With the exception of tax debts and public debts enforced as taxes, the bailiff may determine, at the request of a debtor that is a natural person, the conditions for paying a debt in instalments after the bailiff has taken measures to locate and seize the debtor's assets and the debtor has already paid a part of the enforceable claim. The bailiff will also inform the debtor without assets that can be subject to enforcement about the possibilities of and conditions for paying in instalments.

The bailiff draws up a report on the conclusion and contents of the instalment plan and delivers this to the parties. Within 15 days of receiving the report, the party seeking enforcement may inform the bailiff in writing if it does not agree with the contents of the instalment plan, may make recommendations for the contents of the plan and the amount of the instalments, and may request that the debtor provide security for performance. Based on the statement of the party seeking enforcement, the bailiff may modify the instalment plan conditions as set out below:

a) the bailiff will withdraw the instalment plan if the party seeking enforcement disagrees with the instalments provided for maintenance, wages, or similar claims, if a private person seeking enforcement states that his/her livelihood is threatened by the instalment plan, or if bankruptcy, liquidation, or execution proceedings are under way against a business association seeking enforcement,

b) in cases not covered by point (a), an instalment plan may be put in place for a maximum period of 1 year in the case of legal entities and unincorporated bodies seeking enforcement and of 6 months in the case of natural persons seeking enforcement,

c) the bailiff may require that part-payments proportionate to the amount of the claim be made in addition to the instalment plan if this was requested in the statement of the party seeking enforcement.

The bailiff will provide the debtor with a payment plan of no more than six months with equal monthly payments if enforcement measures have been taken against the debtor's funds with financial institutions, wages and movable assets but the entire amount of the debt has not yet been recovered and

a) no instalment plan has previously been granted,

b) enforcement is under way against the debtor for a financial claim not exceeding HUF 500 000 or enforcement is under way against the debtor for a financial claim not exceeding HUF 1 000 000 but a lien is also registered in the land register on the debtor's residential property as security for another claim, and

c) the debtor's residential property would have to be auctioned off to recover the claim.

The party seeking enforcement does not have to give its consent for an instalment plan; the report on the conclusion of the instalment plan has to be delivered to the party seeking enforcement as well.

The amounts deducted from the debtor by attachment must be included in the calculation of the amount settled by the debtor.

The estimated value of the residential property and its first auctioning can only be set if the debtor has failed to pay the instalments (Sections 52/A - 52/B of the Judicial Enforcement Act).

#### **Statute of limitations for the right of enforcement:**

The limitation period for the right of enforcement ends at the same time as that of the enforceable claim. The statute of limitations pertaining to the right of enforcement is generally taken into consideration on request; it may be taken into account *ex officio* if the statute of limitations for the claim on which it is based must also be taken into account *ex officio*. If the statute of limitations pertaining to the right of enforcement must be taken into account on the basis of the above, no enforcement may be ordered for an application submitted after the expiry of the limitation period, and enforcement procedures already ordered may not be continued. The statute of limitations for the right of enforcement is interrupted by any enforcement act.

#### **Restrictions:**

The amount that forms the basis for deductions from wages as part of an enforcement procedure is the amount that remains after taxes (advance taxes), health insurance and pension contributions, private pension fund membership fees, and other contributions are deducted as required by separate legislation. In general, no more than 33 % or, in exceptional cases, no more than 50 % of this amount may be deducted.

The portion of monthly wages corresponding to the minimum old age pension is exempt from enforcement. However, this exemption does not apply to enforcement for child support and childbirth costs.

No more than 33 % may be deducted from the wages paid by the employer on the basis of the employment relationship.

The deduction may be increased to no more than 50 % of the employee's wages for claims regarding the following:

a) maintenance,

b) claims for employee wages against the debtor,

c) employee wages and social security services received unlawfully (Section 65(2) of the Judicial Enforcement Act).

A maximum of 33 % may be deducted from the debtor's social security pension benefits, early retirement benefits, length-of service benefits, the ballet annuity and the transitional mining allowance (jointly: 'pension benefits') (Section 67(1) of the Judicial Enforcement Act).

The deduction may be increased to no more than 50 % of the pension benefits for claims regarding the following:

a) child support,

b) pension benefits received unlawfully (Section 67(2) of the Judicial Enforcement Act).

No more than 33 % may be deducted from the benefits of jobseekers (unemployment benefits, pre-retirement unemployment benefits, activity compensation benefits) for claims regarding the following:

a) maintenance,

b) unemployment benefits received unlawfully,

c) cash benefits provided as part of working-age benefits received unlawfully.

The following are exempt from attachments:

- the national care allowance, cash benefits for war victims, and the life annuity due under the Act on indemnifying those unlawfully deprived of their life or freedom for political reasons,

- municipal support, extraordinary municipal support, cash benefits provided as part of working age benefits, old-age benefits, income compensation benefits for the unemployed, and care allowance,

- maternity benefits,

- invalidity annuities and personal annuities paid to the blind,

- wage supplement for health damage, temporary wage supplement, income supplement, temporary income supplement, and mining annuity for health damage,

- maintenance defined by law, including child support advanced by the court, and the child protection cash benefits based on the Act on child protection and guardianship administration,

- the educational fee, special support and family allowance paid to foster parents and aimed at supporting children placed temporarily or permanently in care or young adults in after-care,

- scholarships, with the exception of wage-type scholarships for scientific further education,

- costs reimbursed for posting, services in foreign countries and commuting to work,

- amounts serving to cover specific expenses,

- disability benefits (Section 74 of the Judicial Enforcement Act).

For funds handled by a payment service provider and due a natural person, the amount in excess of four times the minimum old-age pension may be subject to enforcement without limitation; of the amount below this limit, 50 % of the amount between the minimum old-age pension and four times the minimum old-age pension may be subject to enforcement (Section 79/A(2) of the Judicial Enforcement Act).

Even if the debtor gives consent, assets that are exempt from enforcement by law cannot be seized.

The following movable property is exempt from enforcement:

- assets that are essential for the debtor to perform its job, especially essential tools; instruments; technical, military, and other equipment; uniforms; weapons of self-defence; and means of transport (with the exceptions of vehicles),

- essential equipment for regular studies, especially textbooks, school supplies, and musical instruments,

- essential items of clothing: 3 outer garments, 1 winter coat, 1 overcoat, 3 pairs of shoes,

- essential articles of linen: 1 set with 2 sheets per person,

- furniture for the number of persons in the debtor's household: no more than 3 tables and 3 wardrobes or similar furniture, plus 1 bed or equivalent furniture and 1 chair or other equivalent furniture per person,
- essential heating and lighting equipment,
- essential kitchen and household equipment for the debtor's household, and 1 refrigerator or freezer and 1 washing machine,
- awards (honours, medals, badges, plaques) given to the debtor, if certified by documents,
- medication and medicinal and technical equipment required for the debtor's illness or physical disability, and the vehicle of a debtor with reduced mobility,
- the objects used by minors in the debtor's household which are intended for children,
- food for 1 month and fuel for heating for 3 months, as required by the debtor and the debtor's household,
- standing crops, unharvested crops and fruit,
- objects that cannot be considered to form part of the debtor's assets in liquidation proceedings,
- the cultural assets listed in the certificate specified by the Act on the special protection of loaned cultural assets, during the term of special protection (Section 90(1) of the Judicial Enforcement Act).

When the vehicle required by a debtor who is a natural person to perform his/her job is seized – unless the vehicle is impounded – it is sufficient to seize the registration card, which is sent together with a copy of the seizure report to the competent transport authority or, if the authority cannot be determined, to the authority that registered the vehicle. Unless the vehicle has been impounded, the debtor may use the vehicle until it is sold.

If the estimated value of the vehicle is less than the amount specified in the decree issued by the minister for justice in agreement with the minister responsible for tax policy, the vehicle is exempt from enforcement.

**Withdrawal of the enforcement sheet and deletion of the enforcement clause:**

If the court was in violation of the law when it issued the enforcement sheet, it must be withdrawn.

If the court was in violation of the law when added an enforcement clause to the order, the clause must be deleted.

The court will withdraw the enforcement sheet or delete the enforcement clause if it finds, at the request of the debtor, that the conditions are met for:

- a) refusing enforcement under Article 21 of Regulation (EC) No 805/2004,
- b) refusing enforcement under Article 22(1) of Regulation (EC) No 1896/2006 or Article 22(1) of Regulation (EC) No 861/2007, or
- c) refusing enforcement under the second subparagraph of Article 21(2) of Council Regulation (EC) No 4/2009 or Article 46 of Regulation (EU) No 1215/2012.

**Appeal against the enforcement order:**

If the court has issued an order for enforcement or, if the enforcement order differs from the application, has issued an order concerning that difference, the parties may lodge an appeal against the order. The appeal against the order does not suspend execution of the enforcement order. However, unless otherwise provided for by law, no steps may be taken to sell seized property and the amount received during the course of enforcement may not be paid to the beneficiary.

**Enforcement objection:**

The parties or other interested parties may submit enforcement objections to the court executing enforcement against an action or omission by the bailiff that causes a substantive infringement of the rules of enforcement procedures or of the rights or lawful interests of the party lodging the enforcement objection. A substantive infringement of the rules of enforcement procedures shall be understood to mean an infringement that had a substantive effect on the outcome of the enforcement procedure (Section 217(1) of the Judicial Enforcement Act).

If the contested measure meets legal requirements or does not constitute a substantive infringement, the court will uphold the contested measure and reject the objection. If the contested measure does constitute a substantive infringement, the Court will annul all or part of the contested measure or - if permitted by law and the facts required for the decision can be substantiated - amend all or part of the enforcement measure. If the objection referred to an omission, the court will instruct the bailiff to implement the measure omitted (Section 217/A(5) of the Judicial Enforcement Act).

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