How to enforce a court decision

Poljska

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

Rules on how to enforce judgements in civil proceedings, including commercial matters, are specified in the Polish Code of Civil Procedure (*Kodeks postępowania cywilnego*) of 17 November 1964 (Journal of Laws 2021, item 1805, as amended).

Enforcement is the use by the competent national authorities of coercive measures enshrined in law to recover payments owed to creditors on the basis of an enforceable title. Enforcement proceedings commence when an application for enforcement is lodged.

The enforceable title serves as the basis for enforcement. As a rule, the enforceable title is an enforcement order with an enforceability clause (Article 776 of the Code of Civil Procedure). This clause is not required for some court orders issued at Member State level or for the settlement agreements and official documents referred to in Article 1153(14) of the Code of Civil Procedure. If these judgements, settlement agreements and official documents meet the conditions set out above, they constitute an enforceable title with which creditors can apply directly to the enforcement authority.

Two types of authority are involved in enforcement proceedings:

judicial bodies – in proceedings to incorporate an enforceability clause in the enforcement order (presiding judge; district courts (*sąd rejonowy*), regional courts (*sąd okręgowy*) and courts of appeal (*sąd apelacyjny*), judicial officers (*referendarz sądowy*));

enforcement authorities – in the relevant enforcement proceedings, these are district courts and bailiffs (Article 758 of the Code of Civil Procedure).

The parties to the declaration of enforceability proceedings and the enforcement proceedings alike are the debtor and the creditor.

Polish law distinguishes between the following types of enforcement procedure:

Enforcement of pecuniary claims arising from:

movable assets

remuneration for work

bank accounts

other claims

other property rights

real estate

seagoing vessels

Enforcement of non-pecuniary claims:

surrender of movable property;

handover of immovable property;

enforcement of decisions requiring a declaration of intent, including the conclusion of a contract (Article 1047 of the Code of Civil Procedure);

enforcement of substitutable and non-substitutable acts and omissions (Articles 1049-1056 of the Code of Civil Procedure);

Enforcement of maintenance claims - the court automatically incorporates an enforceability clause into the enforceable title. In such cases, the enforceable title is automatically served on the creditor. In cases where maintenance is ordered, enforcement proceedings may be instituted at the request of the court of first instance which heard the case. This request is lodged with the enforcement authority with jurisdiction. The bailiff is obliged, by operation of law, to conduct an inquiry to determine the debtor's earnings, assets and place of residence. If this proves ineffective, the police, acting on a request from the bailiff, take appropriate steps to determine the place of residence and work of the debtor. The inquiry should be carried out at intervals of not more than 6 months. If the inquiry fails to determine the income or assets of the debtor, the bailiff asks the court to order the debtor to disclose their assets. If the debtor is in arrears for more than six months, the bailiff applies on an ex officio basis to the National Court Register (*Krajowy Rejestr Sądowy*) for the debtor to be included on the list of insolvent debtors. Failure to implement the enforcement measure does not constitute grounds for discontinuing proceedings.

2 Which authority or authorities are competent for enforcement?

Pursuant to Article 758 of the Code of Civil Procedure, matters relating to enforcement fall within the remit of district courts and bailiffs acting on their behalf.

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

Pursuant to Article 803 of the Code of Civil Procedure, an enforceable title serves as a basis for enforcing the entirety of a claim as regards all categories of the debtor's assets, unless stipulated otherwise. The enforcement authority is not authorised to examine the validity and applicability of the enforceable title to which this obligation applies. It is required, however, to examine the challengeability of a claim covered by the enforceable title.

As a rule, an enforceability clause is incorporated into the enforceable title.

Pursuant to Article 777 of the Code of Civil Procedure, the following are regarded as enforceable titles:

a final or immediately enforceable court judgement and settlement agreements reached in court;

a final or immediately enforceable decision by a judicial officer (*referendarz sądowy*);

other judgments, settlement agreements and legal instruments which are enforced by way of judicial enforcement;

a notarial deed whereby the debtor voluntarily complies with an enforcement measure requiring them to pay an amount or to hand over items specified by type, in the quantity indicated in the deed, or to hand over items specified individually, provided that the deed fixes a date by which this obligation must be complied with or identifies the event that must occur for enforcement to take place;

a notarial deed whereby the debtor voluntarily complies with an enforcement measure requiring payment of the amount specified in the deed or specified by an index-linking clause, where the deed identifies the event that must occur for this obligation to be complied with and the date by which the creditor may apply for an enforceability clause to be incorporated into the deed;

the notarial deed specified in paragraph 4 or 5, whereby the person who is not a personal debtor, and whose property, claim or right is encumbered by a mortgage or pledge, has voluntarily complied with the enforcement action against the mortgaged or pledged property in order to satisfy the secured creditor's pecuniary claim.

A debtor's declaration of voluntary submission to enforcement may also be made in a separate notarial deed.

Only valid court orders which incorporate an enforceability clause or are immediately enforceable (by virtue of an immediate enforceability order issued ex officio or at the request of either party to the proceedings) may constitute an enforceable title. A notarial deed is deemed equivalent to an enforceable title if it complies with the conditions set out in the Code of Civil Procedure and the notarial rules.
Other enforceable titles include: an extract from the list of claims in bankruptcy proceedings; a legally valid bank settlement; a plan to allocate sums obtained through foreclosure; a banking enforceable title as provided for in banking law, but only after the court has incorporated an enforceability clause; judgments handed down by foreign courts and settlement agreements reached in these courts after having been declared enforceable by the Polish court. Judgments handed down by the courts of foreign countries in civil matters which are enforceable by way of judicial enforcement are regarded as enforceable titles after being declared enforceable by the Polish court. A judgment is deemed enforceable if it is enforceable in the country of origin and if none of the obstacles specified in https://sip.legalis.pl/document-view.seam?type=html&documentId=mfrxilrsgm4taoboobqxalrrgaztqmby Article 1146(1) and (2) of the Code of Civil Procedure arise.

3.1 The procedure

The enforceable title serves as the basis for instituting enforcement proceedings. As a general rule, the court of first instance hearing the case incorporates the enforceability clause into enforceable titles handed down by a court (Article 781(1) of the Code of Civil Procedure).
Applications for an enforceability clause to be incorporated are examined by the court without undue delay, but not later than three days after submission to the body with jurisdiction (Article 781(1) of the Code of Civil Procedure). An enforceability clause is incorporated ex officio into titles issued in the proceedings which have, or could have, been instituted ex officio. The court incorporates an enforceability clause into payment orders issued in writ proceedings conducted electronically on an ex officio basis immediately after they become final (Article 782 of the Code of Civil Procedure).
As a rule, an enforcement action can be brought on request. In proceedings that can be instituted ex officio, the enforcement procedure can be instituted ex officio further to a request by the court of first instance hearing the case lodged with the court with jurisdiction or bailiff (Article 796(2) of the Code of Civil Procedure).
A request to institute enforcement proceedings may be lodged by the creditor with the district court with jurisdiction or the bailiff attached to that court. It can also be submitted by other competent authorities (a court or the public prosecutor in matters relating to the enforcement of fines, financial penalties, court fees and procedural costs payable to the Treasury).
As a rule, requests to institute enforcement proceedings are made in writing. An enforceable title must be attached.
The rules governing the collection of fees and the amount thereof are regulated by the Bailiffs' Costs Act of 28 February 2018 (Journal of Laws 2023, item 1357).
The following enforcement fees are collected:
(1) enforcement fees for conducting enforcement proceedings, for enforcing an order to secure payment of a pecuniary claim or a European bank account preservation order or for enforcing a decision on conserving an item of evidence or ordering the handover of an item of evidence in intellectual property matters: in matters involving enforcement of pecuniary claims, the bailiff charges the debtor a proportional fee equivalent to 10% of the enforced claim. If, within one month of the date on which notice was served that enforcement proceedings had been instituted, the debtor pays to the bailiff or to their bank account the entirety or part of the claim to be enforced, the bailiff charges the debtor a proportional fee equivalent to 3% of the claim thus enforced. The minimum fee for a claim thus enforced is PLN 150. If the claim was enforced solely as a result of enforcement against another claim, a bank account, remuneration for work or social security benefits, or as a result of the debtor's payment of the claim to the bailiff or to the bailiff's bank account after the expiry of the time limit of one month from the date on which notice was served on the debtor that enforcement proceedings had been instituted, the minimum fee is PLN 200.
If the claim was enforced in a manner other than that described above, the minimum fee is PLN 300.
The fixed fee for the application for handover of movable property is PLN 400. The fixed fee for the application for handover of real estate meeting the debtor's housing needs or for removing any movable property from the premises that are used by the debtor to meet their housing needs is PLN 1500. The fixed fee for the application for obtaining possession of another item of real estate or removing any movable assets from other premises is PLN 2000. If the real estate, premises or room are used by the debtor exclusively for the purposes of carrying out business activities, the fee of PLN 2000 is increased by PLN 1000 per room for the second and any further room forming part of the real estate or premises to be subject to enforcement. The total fee must not exceed PLN 30 000.
The fixed fee for:
handing the assets over to an insolvency administrator or property manager;
handing over the management of the property to a property manager;
conservation of an item of evidence in intellectual property matters; or
handing over an item of evidence in intellectual property matters, is PLN 400.
The fixed fee for involvement in overcoming physical resistance on the part of the debtor and for executing the court's instructions to place the debtor in custody is PLN 1000.
If the debtor pays the claim indicated in the enforceable title at the latest three days before the enforcement of the enforceable title is due, the bailiff reimburses 50% of the fee paid to the creditor. If the debtor pays the claim before they were served with notice of initiation of enforcement or an invitation for voluntary payment, the bailiff reimburses the creditor that part of the amount paid which exceeds PLN 200.
(2) fees for conducting other proceedings or performing other activities – Fixed fee on an application for:
enforcement of a decision to secure an inheritance; or
drawing up an estate inventory, is PLN 400.
The fixed fee for direct and personal service of documents, if ordered by the court or requested by the applicant, is PLN 60. The fee is charged for service to a single address of the specified document in the case, irrespective of the number of addressees residing at that address and the number of service attempts made. The fixed fee on an application for measures to establish the addressee's current address is PLN 40. The fixed fee for drawing up official findings of fact is PLN 400.

3.2 The main conditions

An enforcement action is initiated by an application lodged by the creditor with an enforceable title attached to it. It is important to name the debtor in the application. The creditor may indicate how enforcement is to be carried out, i.e. by identifying the property rights in question. For enforcement of property-related claims the Land Registry must also be indicated. In the case of enforcement involving movable assets, there is no need for detailed identification of each movable asset, since enforcement applies to all the debtor's movable assets.

4 Object and nature of enforcement measures

4.1 What types of assets can be subject to enforcement?

All items or equipment forming part of the debtor's assets can be the subject of enforcement action, including movable property, real estate, remuneration for work, bank accounts, a fraction of real estate, seagoing vessels and the debtor's other claims and property rights.
Articles 829 to 831 of the Code of Civil Procedure impose certain restrictions on the type of item or equipment that can be subject to enforcement. Under these provisions, the following items or equipment are exempt: such household effects, bedding, underwear and everyday clothing as may reasonably be required to satisfy the basic domestic needs of the debtor and their dependent family members, as well as such clothing as may be required by the debtor to perform their public or professional duties; such food and fuel supplies as are necessary to meet the basic needs of the debtor and their dependent family members for a period of one month; such tools and other instruments as may be necessary for the debtor to carry out paid work, and such raw materials as may be required for the production process for a period of one week, excluding motor vehicles.
Apart from the Code of Civil Procedure, there are also other national rules that define the types of claim that are exempt from enforcement action and the extent to which such exemption applies (e.g. the Labour Code (Kodeks pracy) defines the extent to which payment of remuneration for work can be enforced).

4.2 What are the effects of enforcement measures?

The enforceable title serves as a basis for enforcing the entirety of the claim regarding all of the debtor's assets, unless stipulated otherwise.
Debtors are entitled to manage their assets unless the court deprives them of that right.
Once enforcement proceedings have been instituted against **movable property**, the bailiff seizes the property and draws up a record of seizure. The effect of seizure is such that management of the seized real estate does not affect the further course of proceedings, and that enforcement proceedings regarding the seized real estate can also be brought against the buyer. However, the bailiff may, for important reasons, at any stage of the proceedings, cede control of the seized movable assets to another person, not excluding the creditor.
If an enforcement action is brought for **real estate**, the bailiff first requests that the debtor pay the debt within two weeks, failing which the bailiff proceeds to describe and estimate the value of the property. Management of the real estate after seizure does not affect the further course of proceedings. The buyer can participate in the proceedings as a debtor.
Where the debtor is required to **refrain from** taking a certain course of action or required not to interfere with action taken by the creditor, the court, further to a request by the creditor, fines the debtor if the latter fails to comply with this obligation; debtors who fail to pay the fine are liable to imprisonment.

4.3 What is the validity of such measures?

The Code of Civil Procedure does not make applications for enforcement subject to time limits. However, under Polish law, claims established by a final judgment of the court or other body appointed to hear such cases, or by a judgment of the court of arbitration, or claims established by way of an agreement reached in a court or court of arbitration, or an agreement reached before a mediator and approved by the court, will be time-barred after a period of six years, even if the period of limitation for such claims is shorter (Article 125(1) of the Civil Code (*Kodeks cywilny*)). If the claim thus approved covers periodical obligations, any future claims in respect of periodical obligations will be subject to a limitation of three years.
Applications for enforcement are examined by the competent authority to determine whether they comply with formal requirements and admissibility criteria. Failure to comply with specific requirements may result in rejection of the application or discontinuance of enforcement proceedings.

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

The parties to the proceedings may appeal against the court order to incorporate an enforceability clause.
The following remedies are available in enforcement proceedings:
a complaint against the bailiff's actions (which must be filed with the district court; this also concerns a situation where the bailiff fails to act. A complaint may be lodged by a party or person whose rights have been infringed or threatened by an act or omission on the part of the bailiff. The time limit for filing a complaint is one week from the day of the act or the day on which the party or person became aware of the failure to act);
an appeal against a court order (an appeal against a judicial officer's decision) to incorporate an enforceability clause (Article 795 of the Code of Civil Procedure; the time limit for lodging the appeal is calculated, in the case of a creditor, from the date on which the creditor was granted the enforceable title or on which the decision refusing enforcement was issued, or, in the case of a debtor, from the date on which notice was served that enforcement proceedings had been instituted);
an appeal against a court order declaring the European order for payment enforceable (Article 795(5) of the Code of Civil Procedure);
an appeal against a court order to suspend or discontinue proceedings (Article 828 of the Code of Civil Procedure);
an appeal against a court order to restrict enforcement (Article 839 of the Code of Civil Procedure);
a court order restricting enforcement and an appeal against that order (Article 839 of the Code of Civil Procedure);
actions brought by the debtor to contest enforcement measures (Articles 840 to 843 of the Code of Civil Procedure);
appeals against a court order to reimburse caretaker expenditure (Article 859 of the Code of Civil Procedure);
an appeal against a court order concerning description and estimation activities during foreclosure (Article 950 of the Code of Civil Procedure);
an oral complaint against actions taken by the bailiff in the course of auction, lodged with the supervising body (Article 986 of the Code of Civil Procedure);
an appeal against a court order to award a contract (Article 997 of the Code of Civil Procedure);
petitions objecting to the allocation plan for amounts recovered by way of enforcement (within two weeks of giving notice to the enforcement authority which drew up the plan (Article 998 of the Code of Civil Procedure));
an appeal concerning a court order concerning petitions objecting to the allocation plan (Article 1028 of the Code of Civil Procedure);
an appeal concerning a court order to suspend or discontinue proceedings (Article 1055 of the Code of Civil Procedure);
an appeal concerning a decision of the court to exclude assets from seizure in enforcement proceedings involving the State Treasury (Article 1061(2) of the Code of Civil Procedure).

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

Pursuant to Article 829 of the Code of Civil Procedure, the following are exempt:
such household effects, bedding, underwear and everyday clothing as may reasonably be required to satisfy the basic domestic needs of the debtor and their dependent family members, in particular a refrigerator, washing machine, vacuum cleaner, oven or microwave oven, a heating plate for heating and preparing meals, beds, table and chairs in numbers necessary for the debtor and their family members, and one lighting source per room, unless these are items whose value significantly exceeds the average value of new items of the relevant type;
such clothing as may be required by the debtor to perform their public or professional duties;
such food and fuel supplies as are necessary to meet the basic needs of the debtor and their dependent family members for a period of one month;
one cow, two goats or three sheep required for the subsistence of the debtor and their dependants, with a sufficient supply of feed and bedding to survive until the next harvest;
such tools and other instruments as may be necessary for the debtor to carry out paid work, and such raw materials as may be required for the production process for a period of one week, excluding motor vehicles.

in the case of a debtor receiving fixed remuneration on a periodic basis –an amount of remuneration corresponding to the part of remuneration not subject to enforcement for the period until the next payment date, and, in the case of a debtor not receiving fixed remuneration – an amount corresponding to means of subsistence for the debtor and their family members for a period of two weeks;
items or equipment necessary for educational purposes, personal papers, decorations and items used for religious practice, as well as everyday objects that can only be sold at a price significantly below their original value, but with a high utility value for the debtor;
medicinal products within the meaning of the Pharmaceutical Act of 6 September 2001 (*Prawo farmaceutyczne*) (Journal of Laws of 2008, No 45, item 271, as amended) necessary to ensure the proper functioning of a healthcare entity within the meaning of the provisions on medical activity for a period of three months, and the medical devices necessary to ensure its functioning within the meaning of the Medical Devices Act of 20 May 2010 (*Ustawa o wyrobach medycznych*) (Journal of Laws No 107, item 679; 2011/102, item 586; and 2011/113, item 657);
items or equipment necessary due to a disability on the part of the debtor or his or her family members.
Pursuant to Article 831(1), the following are exempt:
payments and benefits in kind set aside to cover expenses or business travel expenses;
sums allocated by the Treasury for special purposes (in particular scholarships and support schemes), unless the enforced claim was established for these purposes or as a result of maintenance obligations;
resources from programmes financed by the funds referred to in Article 5(1)(2) and (3) of the Public Finance Act of 27 August 2009 (*Ustawa o finansach publicznych*) (Journal of Laws 2013, items 885, 938 and 1646), unless the enforced claim was established for the implementation of the project to which these funds were allocated;
inalienable rights, unless made transferable under the agreement, and the services provided can be enforced or the exercise of this right can be entrusted to another entity;
personal insurance benefits and property insurance claims, within the limits defined, by way of a regulation, by the Minister for Finance and the Minister for Justice; this does not apply to enforcement measures to satisfy claims arising from maintenance obligations;
social assistance within the meaning of the Social Assistance Act of 12 March 2004 (*Ustawa o pomocy społecznej*) (Journal of Laws 2013, item 182, as amended);
amounts payable to the debtor from the state budget or the National Health Fund for the provision of healthcare benefits within the meaning of the Publicly Funded Health Care Act of 27 August 2004 (*Ustawa o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych*) (Journal of Laws 2008/164, item 1027, as amended) prior to termination of such benefits, in an amount corresponding to 75% of each payment, unless these are claims made by the debtor's employees or healthcare providers as referred to in Article 5(41)(a) and (b) of the Publicly Funded Health Care Act of 27 August 2004;
amounts awarded by a decision of the European Court of Human Rights, if the claim is owed to the State Treasury;
rehabilitation benefits within the meaning of the Social Employment Act of 13 June 2003 (*Ustawa o zatrudnieniu socjalnym*) (Journal of Laws 2020, item 176);
amounts payable to a housing cooperative from its members and from non-members who have a cooperative right to premises or who are owners of premises, in respect of the fees referred to in Article 4 of the Housing Cooperatives Act of 15 December 2000 (Journal of Laws 2021, item 1208), as well as the resources at the cooperative's disposal in connection with the payment of those fees, unless the claim subject to enforcement arose in connection with the payment by the creditor of the claims be enforced from the fees referred to in Article 4 of that Act.
Pursuant to Article 833(1) of the Code of Civil Procedure, remuneration for work is enforceable as specified in the *Labour Code* of 26 June 1974 (Journal of Laws 2020, item 1320). These provisions apply mutatis mutandis to unemployment benefits, incentive pay, scholarships and training allowances payable under provisions governing the promotion of employment and labour market institutions.
Pursuant to Article 87(1)(1) of the Labour Code, the following amounts of remuneration are not subject to any deductions:
(1) the minimum wage fixed under separate provisions, payable to persons employed on a full-time basis, after deduction of social security contributions and withholding taxes, minus amounts enforced by enforceable titles to settle claims other than maintenance payments;
(2) 75% of the remuneration specified in paragraph 1 – after deduction of cash advances granted to the employee;
(3) 90% of the remuneration specified in paragraph 1 – after deduction of the fines provided for in Article 108 of the Labour Code.
If the employee works on a part-time basis, the amounts are reduced in proportion to working hours.

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