

# **LAW ON ENFORCEMENT PROCEDURES**

("Official Gazette of the Republic of Macedonia", No. 53/97)

Note: See article 62 in the "Official Gazette of RM", No. 21/98, 59/2000.

## **Part one**

### **BASIC PROVISIONS**

#### **Article 1**

This Law provides the rules according to which a court acts for mandatory enforcement of a court decision for performance of an obligation and securing a claim.

The provisions of this law shall also apply to mandatory enforcement of a decision passed in an administrative procedure for the performance of a monetary obligation, as well as for securing a monetary claim for which a decision is to be ruled on in an administrative procedure, except where by law the enforcement or the securing fall under the competence of another agency.

The provisions of this law shall apply to enforcement against and securing of a ship or an aircraft only if this has been provided by a separate law.

#### **Filing a Procedure**

##### **Article 2**

The enforcement procedure and the security procedure are filed upon proposal from the creditor.

These procedures are filed in the cases provided by law, and as *ex officio*.

#### **Competence**

##### **Article 3**

Enforcement and securing shall be allowed and carried out by court.

#### **Extent of Enforcement and Securing**

##### **Article 4**

The enforcement of a collection or securing of a monetary claim shall be permitted and realized to the extent that is necessary for settlement or securing of such claim.

#### **Protection of a Debtor**

##### **Article 5**

An enforcement for collection and securing of a monetary claim cannot be realized against property or rights necessary to meet the fundamental living needs of the debtor and the persons for whom he/she, according to law, is obligated to provide for, as well as against property or rights necessary for conducting of the business that is the main source of funds for existence of the debtor.

In the course of the enforcement and securing procedures, attention shall be paid to preserving the dignity of the debtor and making the enforcement and the securing procedure less unfavorable for the debtor.

## **Composition of Courts and Court Decisions**

### **Article 6**

A first instance enforcement procedure shall be conducted and the decisions shall be made by a single judge whereas a second instance enforcement procedure is conducted and decided by a council of three judges.

Decisions passed in enforcement and security procedures shall be passed by a court in the form of an order or a resolution.

A resolution serves to direct an official person to undertake certain actions, as well as to govern other matters related to the administration of the procedure.

A resolution in a second instance procedure shall be passed by the President of the Council.

## **Legal Remedies**

### **Article 7**

A first instance order may be appealed, unless otherwise provided by this Law.

A debtor may file a petition against an enforcement order, unless otherwise provided by this Law (article 49 paragraph 2).

An appeal or a petition shall be filed within eight days following the date of delivery of the first instance order, unless otherwise provided by this Law.

An order rendered on basis of a petition may be appealed.

An appeal or a petition shall not postpone the enforcement, unless otherwise provided by this Law.

A decision rendered on basis of an appeal is final.

There is no legal remedy against a resolution.

## **Impossibility of Revision and Repetition of the Procedure**

### **Article 8**

A revision or repetition of the process is not allowed against a final decision passed in an enforcement or securing procedure.

## **Urgency and Order of Actions**

## **Article 9**

A court shall act urgently on enforcement and security procedures.

A court shall attend the cases in the order in which they were received, unless otherwise indicated by the nature of the claim or any special circumstances.

## **Order of Payment to Several Creditors**

### **Article 10**

Several creditors who are settling their monetary claims with the same debtor and against the same property for enforcement, shall be paid in the order in which they acquired the right to collect against such property, except in cases for which this Law provides otherwise.

## **Enforcement of a Decision of a Foreign Court**

### **Article 11**

Enforcement of a decision of a foreign court may be allowed and realized in the Republic of Macedonia provided the decision meets the requirements for recognition prescribed by law.

## **Enforcement against Property of a Foreign State**

### **Article 12**

Enforcement or security procedure against property of a foreign country in the Republic of Macedonia cannot be allowed without previous consent from the Ministry of Justice, unless the foreign state has explicitly agreed to the enforcement or security procedure.

## **Application of Provisions of the Law on Trial Procedures**

### **Article 13**

In the enforcement and security procedures the provisions from the Law on Trial Procedure shall apply, unless otherwise provided by this or other law.

## **Meaning of Certain Terms**

### **Article 14**

Certain terms used in this Law have the following meaning:

1. the term "claim" denotes a right to collect an amount of money or the right to do or not to do;
2. the term "creditor" denotes a person whose claim is being enforced or secured;
3. the term "debtor" denotes a person against whom the claim is being collected or secured;
4. the term "party" denotes the creditor and the debtor;

5. the term "participant" denotes a person who realizes some right or some legal interest in the enforcement or security procedure but who is not a party to the procedure;
6. the term "enforcement order" denotes an order which accepts, in full or in part, the proposal for enforcement;
7. the expression "an officially appointed person" denotes a court employee who directly undertakes certain actions for enforcement or security;
8. the term "farmer" denotes a person who earns his income mainly from agricultural production;
9. the term "public registry" denotes a registry of deeds [land registry], an intabulation registry and a cadaster, only after the cadaster has been provided for by the Law on Measuring, Cadaster and Recording Rights on Real Property.

## Part two

### **ENFORCEMENT PROCEDURE**

#### **2.1. JOINT PROVISIONS**

##### **2.1.1. Introductory Provisions**

##### **Executive Title [Final Document]**

###### **Article 15**

A court shall allow enforcement on the basis of an executive title.

Executive title is:

1. a final court decision and court settlement;
2. a final decision in an administrative procedure and a settlement in an administrative procedure, but only for performance of a monetary obligation;
3. other document provided by law as an executive title.

##### **Court Decision and Court Settlement**

###### **Article 16**

A court decision, as provided by this Law, is a judgement, court order, payment order or other order pronounced by the courts, the elected courts and the arbitration tribunals, while a court settlement is a settlement concluded before these courts.

A decision in an administrative procedure, as provided by this law, is a court order or resolution pronounced by an administration agency or a legal entity in the course of the performance of their public duties, whereas a

settlement in an administrative procedure is concluded as provided in the Law on General Administrative Procedure.

### **Enforceability of a Decision**

**Article 17** A court decision is enforceable if it is valid and if the time period for voluntary performance of the debtor's obligation has expired.

A decision pronounced in an administrative procedure is enforceable if it is final and if the time period for voluntary performance of the obligation has expired.

The time period for voluntary performance of the obligation starts to run from the date the decision was delivered to the debtor.

Based on a decision that has become enforceable in part, enforcement may be allowed only for that part.

The enforcement shall also be allowed on basis of a court decision that has not become valid and a decision pronounced in an administrative procedure that has not become final, if it is provided by law that the appeal shall not delay the enforcement of the decision.

### **Enforceability of a Settlement**

#### **Article 18**

A court settlement or a settlement concluded in an administrative procedure shall be enforceable if the claim became due after the settlement had been concluded.

The maturity of a claim is proven by the settlement minutes, a public record or a legally certified document.

A maturity that cannot be proven as provided in paragraph 2 of this article shall be proven with a valid decision for verification of the maturity pronounced in a trial procedure.

### **Eligibility of an Enforcement Title for Enforcement**

#### **Article 19**

An enforcement title is eligible for enforcement if the names of the debtor and the creditor as well as the subject, the type, the scope and time limit for the performance of the obligation are specified therein.

If the enforcement title is a decision in which the time limit for voluntary performance of the obligation is not specified, the time limit shall be specified in the enforcement order.

### **Payment of Default Interest**

#### **Article 20**

Where the default interest rate has changed after the enforcement title was issued, upon proposal by the creditor or the debtor, the court shall, in the enforcement order, allow collection with the changed default interest rate.

Where procedure expenses are specified in the enforcement title, upon proposal by the creditor, the court shall, in a court order, allow collection of the default interest on the amount of the expenses at the statutory rate for the period between the date of issuance of the enforcement title and the collection.

## **Authentic Document**

### **Article 21**

Enforcement for the collection of a monetary claim of a legal entity shall also be allowed on the basis of an authentic document.

An authentic document, as provided in this Law, is an invoice, a bill of exchange or a check, with protest and a return bill when necessary for establishing a claim, a public record, an extract from certified business books, a legally certified private document and a document that, in accordance with the special regulations, is considered a public record. Calculation of interest is also considered an invoice.

Where the authentic document does not specify when the claim is due, enforcement shall be allowed if the creditor submits a written statement stating that the claim has matured as well as the maturity date.

## **Transfer of Claim or Obligation**

### **Article 22**

Enforcement shall also be allowed upon proposal from a person who is not specified as the creditor in the enforcement title if s/he proves, with a public record or a legally certified document, that the claim has been transferred to him/her or that it has passed on to him/her in some other way; however, if this is not possible, the transfer of the claim shall be proven with a final decision pronounced in a trial procedure.

The provision pertaining to paragraph 1 of this article shall also apply to enforcement against a person who is not specified as a debtor in the enforcement title .

## **Conditional and Reciprocal [Mutual] Obligations**

### **Article 23**

Any enforcement that is dependent on a previous performance of an obligation by the creditor, or is subject to condition, shall be allowed if the creditor proves with a public or a legally certified record that he/she has performed the obligation, or that the condition has become real.

Where a creditor fails to provide the evidence requested in paragraph 1 of this article, the performance of the obligation or the realization of the condition shall be proven with a valid decision pronounced in a trial procedure.

If, according to the executive title the debtor is obligated to perform the obligation, but under condition that at the same time the obligation towards

him/her is also performed, the court shall allow enforcement if the creditor submits proof that he/she has ensured the performance of the obligation.

It shall be considered that the creditor has performed his/her obligation, as requested in paragraph 3 of this article, if he/she deposits the subject of the obligation at a court or acts in some other appropriate manner for the same purpose.

A creditor who claims that he/she has already performed the obligation should prove that in the manner provided in paragraphs 1 and 2 of this article.

### **Alternative Obligation by Choice of the Debtor**

#### **Article 24**

If, according to the executive title the debtor is entitled to choose among several objects of his/her obligation, the creditor shall be obliged to specify in his enforcement proposal the object with which the obligation should be performed.

The debtor has the right to choose up to the moment when the creditor has received even a part of the object requested in the enforcement proposal.

### **Optional Authorization of a Debtor**

#### **Article 25**

A debtor, against whom a non-monetary obligation was pronounced in an executive title with the right to settle the obligation by paying the amount of money specified in the executive title, may pay this amount up to the moment when the creditor will have received even a partial performance of the obligation.

### **Motions and Hearings**

#### **Article 26**

During the enforcement procedure, a court acts through motions and other written documents.

A court shall hold a hearing when provided by this Law or when it considers the hearing to be purposeful.

For a hearing in court, a judge may compose an official note instead of minutes.

The court shall interrogate the party or the participant in the procedure outside the hearing if provided by this Law, or where the court finds it necessary for clarification of certain issues or stating an opinion on the proposal of the party.

Failure to appear at a court hearing by one or both parties or the participants in the hearing, as well as their failure to respond to court summons for interrogation, shall not prevent the court from proceeding further.

### **Enforcement Actions**

#### **Article 27**

Only the following may be allowed as action for enforcement of a monetary obligation: (i) sale of movable property, (ii) sale of immovable property, (iii) transfer of a monetary claim, (iv) transformation into money of other property rights, and (v) transfer of funds maintained on the account at the Payment Bureau in conformity with the regulations that govern payment operations.

### **Subject of Enforcement**

#### **Article 28**

A subject of an enforcement for the purpose of settling a monetary claim may be any object of property or property right of the debtor which is not exempt from enforcement by law i.e. the enforcement against which is not limited by law.

### **Limitation on Actions and Objects for Enforcement**

#### **Article 29**

A court shall allow enforcement for collection of a monetary claim with the action and against the objects specified in the proposal for enforcement.

Where the creditor has proposed several actions and objects for enforcement, the court shall, upon proposal from the debtor or as *ex-officio*, limit the enforcement only to some of the actions or objects, provided they are sufficient for the settlement of the claim.

Upon the debtor's proposal, the court may determine other action of enforcement rather than the one proposed by the creditor, provided this action is sufficient for the settlement of the claim.

### **Restoration to Prior State**

#### **Article 30**

Restoration to the prior state shall be allowed in the enforcement procedure only for omission of the time limit for filing an appeal or a petition.

### **Death of a party**

#### **Article 31**

If a party or its legal representative dies, the court shall inform their successors and the opposing party of the interruption in the enforcement

procedure provided the successors or their place of residence are known to the court.

If the successors or their place of residence are unknown, the court shall appoint a temporary legal guardian without delay.

### **Expenses of enforcement**

#### **Article 32**

The expenses of the enforcement procedure shall be paid by the creditor in advance.

The creditor shall be obliged to make an advance deposit for the expenses of the enforcement procedure within a time limit determined by the court.

If the creditor does not make an advance deposit for the expenses of the enforcement procedure within the set time limit, the court shall interrupt [stop] the enforcement.

Where the procedure is *ex officio* initiated, the expenses shall be paid in advance by the agency that pronounced the enforcement title in the first instance.

The debtor shall, upon request of the creditor, be obliged to compensate the expenses necessary for the enforcement procedure.

The creditor shall, upon request of the debtor, be obliged to compensate any groundless expenses of the enforcement procedure.

A request for compensation of expenses may be filed within 30 days from the date of completion of the procedure at the latest.

### **Guaranty**

#### **Article 33**

Where this law requires deposit of a guaranty, the guaranty shall be deposited in cash.

The Republic of Macedonia and state agencies shall not deposit guaranties.

## **2.2. PROPOSAL FOR ENFORCEMENT**

### **Substantive Jurisdiction**

#### **[Jurisdiction dependent on the type of dispute]**

#### **Article 34**

The court specified in the Law on Courts shall be competent to pronounce a decision on an enforcement proposal.

### **Contents of an Enforcement Proposal**

#### **Article 35**

An enforcement proposal shall specify: (i) the creditor and the debtor, (ii) the enforcement title or the authentic document, (iii) the debtor's obligation,

(iii) the action and the object of enforcement, and (iv) other information necessary for realization of the enforcement.

An enforcement proposal based on an authentic document (article 21) must also contain a request that the court, following the delivery of the court order, oblige the debtor to settle the claim together with the court assessed expenses within eight days, or for disputes related to bills of exchange or checks within three days.

Where enforcement is requested against movable property, the objects of property need not be specified in detail in the enforcement proposal.

### **Confirmation of Enforceability**

#### **Article 36**

Where the enforcement proposal is filed with a court which does not decide on the claim in the first instance, an enforcement title, in original or as a certified copy, containing a confirmation of enforceability or an authentic document shall be filed enclosed in the proposal.

A confirmation of enforceability shall be given by the court or the agency that has decided on the claim in first instance.

Any groundless confirmation on enforceability shall, upon proposal or as *ex officio*, be **revoked** by the same court or agency.

### **Withdrawal and Limitation on an Enforcement Proposal**

#### **Article 37**

During the procedure, the creditor may, without consent from the debtor, withdraw the enforcement proposal in full or in part.

In such a case, the court shall interrupt [stop] the procedure.

After having withdrawn the enforcement proposal, the creditor may submit a new proposal for enforcement.

### **Court Order on an Enforcement Proposal**

#### **Article 38**

A court order for enforcement must specify: (i) the creditor and the debtor, (ii) the enforcement title or the authentic document, (iii) the debtor's obligation, (iv) the action and the object of enforcement; and other information necessary for the realization of the enforcement.

By an enforcement order, the court shall, based on an authentic document, oblige the debtor to settle the claims together with the court assessed expenses within eight days, or for disputes related to bills of exchange or checks within three days and permit performance for the purpose of settling the claims.

The court order pursuant to paragraph 2 of this article shall inform the debtor of his/her right to file a petition against the order.

A court order rejecting an enforcement proposal must be explained.

### **Submission of an Enforcement Order Article 39**

A court order for enforcement shall be submitted to both the creditor and to the debtor whereas a court order for rejecting a proposal for enforcement shall be submitted only to the creditor.

A court order for enforcement against a monetary claim shall also be submitted to the debtor's debtor while the court order for enforcement against funds on the account of the debtor shall also be submitted to the unit of the Payment Bureau where these funds are maintained.

A court order for enforcement pronounced on the basis of an authentic document shall be submitted to the appropriate unit of the Payment Bureau only after it has become valid.

A court order for enforcement over movable property shall be submitted to the debtor in the course of the first enforcement action, unless otherwise provided by this law (article 73).

Where the court that has pronounced the enforcement order is not competent for the realization of the enforcement, it shall refer the enforcement order to the competent court for the purpose of submission and realization of the enforcement.

## **2.3. REALIZATION OF ENFORCEMENT**

### **Subject Matter Jurisdiction**

#### **Article 40**

The realization of enforcement falls under the jurisdiction of the court as determined by the Law on Courts.

### **Enforcement Based on an Invalid Enforcement Order**

#### **Article 41**

Enforcement may also be realized before the enforcement order has become valid unless otherwise provided by this law for certain enforcement actions.

Before the enforcement order has become valid, the claim of the creditor cannot be paid, except where the court order for enforcement is against funds of the debtor maintained in an account at the Payment Bureau (article 195, paragraph 2).

An enforcement allowed on the basis of an authentic document cannot be realized before the enforcement order has become valid.

### **Limits on Enforcement**

#### **Article 42**

An enforcement shall be realized within the limits provided for in the enforcement order.

### **Time of Enforcement**

#### **Article 43**

Any enforcement shall be realized on a working day, and during the daytime.

### **Officially Appointed Person**

**Article 44** Any officially appointed person shall, during the search of the debtor's home or the clothes that he/she is wearing or when undertaking any other enforcement activity, treat the debtor and members of his/her household with due respect . Enforcement activities in the debtor's home in which the debtor, his/her legal representative, a representative under power of attorney or an adult member of his/her household are not present, shall be attended by two adult [of legal age] citizens.

Enforcement occurring in premises of a legal entity shall be realized after the officially appointed person has requested that the company's representative or a person appointed by the representative attend the enforcement action.

Where enforcement is to be realized in premises that are locked, and the debtor is not present or does not want to unlock the premises, the officially appointed person shall open the premises in the presence of two adult [of legal age] citizens.

Where the representative of the legal entity refuses to abide by the request of the officially appointed person or if he/she is on in the premises while the officially appointed person is conducting the enforcement action, the enforcement shall be realized in presence of two adult [of legal age] witnesses.

The officially appointed person shall undertake the activities pursuant to paragraphs 1,2,3 and 4 on the basis of a written order by the court, and shall prepare written minutes to be signed by the witnesses.

### **Hindering the Work of an Officially Appointed Person**

#### **Article 45**

The officially appointed person shall remove any person that is hindering the realization of the enforcement, and if the circumstances of the case so require, request assistance from the competent internal affairs agency.

### **Irregularities in the Realization of the Enforcement**

#### **Article 46**

A party or a participant in an enforcement procedure may by a motion request that the court correct irregularities made by the officially appointed person during the realization of the enforcement. The court shall pass an order based on such a motion upon demand from the person submitting it.

## **2.4. DEBTOR'S PETITION AGAINST AN ENFORCEMENT ORDER**

### **Petition as a Sole Legal Remedy**

#### **Article 47**

A debtor may only file a petition against an enforcement order if s/he was not given the opportunity to state his/her opinion on the proposal for passing the enforcement order, on the hearing [for the proposal] or before that.

Only a decision for payment of costs may be appealed.

### **Jurisdiction**

#### **Article 48**

A petition shall be decided by the court that passed the enforcement order.

### **Grounds for Petition**

#### **Article 49**

An enforcement order may be petitioned on the grounds that enforcement has been prevented, and especially if:

1. the court that passed the enforcement order does not have such jurisdiction;
2. the document on which the enforcement was proposed is not an executive title or an authentic document;
3. the decision which the enforcement order was based is not enforceable;
4. the decision on which the enforcement order was based has been revoked, annulled or changed;
5. the settlement on which the enforcement order was based becomes invalid with a decision;
6. the time period for settlement of a claim has not expired or the condition dependent on the settlement has not become real;
7. an enforcement is allowed against movable property, monetary claim and other rights that are exempt from the enforcement, or against which the enforcement is limited;
8. a claim was terminated on the basis of a fact that became real after or before the decision has become enforceable, at a time

when the debtor could not present [raise] this in the procedure in which the enforcement title was pronounced, or where the claim was terminated on the basis of a fact that become real after the settlement was agreed;

9. a creditor has postponed the performance of an obligation which has not yet expired;
10. the statutory time period for filing an enforcement proposal has expired;
11. the claim that is the subject of an executive title has become time-barred;
12. the claim was not transferred to the creditor, i.e. the obligation was not transferred to the debtor; or
13. an enforcement has not yet been attempted against movable property from which, as determined by this law, the creditor may primarily settle his/her claim.

Where a hearing is held before an order for enforcement has been issued, the debtor shall be obliged to plead the reasons pertaining to paragraph 1 of this article.

### **Petition Following the Expiration of a Time Limit**

#### **Article 50**

A petition that is based on a fact concerning a claim (article 53 paragraph 1) may be filed after the expiration of eight days (article 7 paragraph 3), or after the hearing has been held (article 49 paragraph 2), provided the fact has become real after the passing of the executive title or at a time when the executive title could not be presented in the procedure in which it was passed.

The petition from paragraph 1 of this article may be filled up to the time the enforcement procedure is concluded.

### **Response to a Petition**

#### **Article 51**

Each petition shall be delivered to the creditor.

The creditor may file a response to the petition within eight days following the date of delivery.

### **Court Decision in Regard to a Petition**

#### **Article 52**

After having received a response to a petition, or after the time period for response has expired, the court shall, subject to the circumstances of the case, schedule a hearing for the petition or pass a decision without a hearing, except in the case pertaining to article 53 of this law.

By a decision passed in regard to a petition, the petition shall be admitted or denied as late, incomplete or illegal.

Where a petition for lack of jurisdiction is admitted, the court shall invalidate its decision and invalidate activities the already undertaken and shall refer the proposal to the court which has jurisdiction.

Where other petitions have been admitted, the court shall, fully or partially, subject to the circumstances of the case, invalidate the enforcement and invalidate the activities already undertaken .

### **Referral to Trial or Other Procedure**

#### **Article 53**

If a court order in regard to a petition (article 52) or an enforcement order (article 49 paragraph 2) depends on a fact that concerns the claim and that is in dispute between the parties, the court shall refer the creditor to initiate a civil or some other procedure within a specified time period in order for the enforcement to be found [pronounced] illegal.

A debtor may initiate a civil or other procedure pursuant to paragraph 1 of this article after the expiration of the time period specified by the court, not later than the completion of the enforcement procedure, but shall bear the expenses caused by exceeding the time limit.

A court order passed in conformity with paragraph 1 of this article cannot be appealed. Where a valid court decision declares an enforcement illegal, the court shall, upon a debtor's proposal, terminate the enforcement and invalidate the activities already undertaken.

### **Court Order Petitioned on the Basis of an Authentic Document**

#### **Article 54**

The debtor may petition a court order on basis of an authentic document within eight days, and in disputes related to bills of exchange and checks, within three days.

The debtor may, as provided in 50 paragraph 1 of this law, file a petition against an enforcement order that is based on an authentic document and allows enforcement, provided the petition is based on a fact that concerns the claim and became real after the enforcement order was passed.

### **Procedure Following a Petition against an [Enforcement] Order based on an Authentic Document**

#### **Article 55**

Where the debtor's petition against an enforcement order which was based on an authentic document does not specify any part of the enforcement order, it shall be considered that the enforcement order is petitioned in full.

Where an enforcement order is petitioned in full or only in the part relating to the debtor's obligation to settle the claim, the court in which the

petition was filed shall invalidate the enforcement order in the part that allows the enforcement and shall invalidate the activities already undertaken; the procedure shall be continued as for petition against a payment order, and if the court does not have territorial jurisdiction over it, the court shall refer the case to the court which has jurisdiction.

Where an enforcement order is petitioned only because of an allowed enforcement, the further procedure shall continue as a petition procedure for the enforcement order passed on basis of an executive title.

Where the petition from paragraph 3 of this article is admitted, the part of the enforcement order relating to the obligation of the defendant to settle the claim shall have the character of executive title on the basis of which enforcement may be requested again.

A petition against an enforcement order does not have to be reasoned, except when filed after the time limit for filing a petition.

If the debtor does not file a petition against the part of the enforcement order that relates to the obligation of the debtor to settle the claim, he/she may request that the procedure for this part of the enforcement order be repeated in conformity with the rules of trial procedure.

Where the court, in which the proposal pertaining to paragraph 6 of this article has been filed, has no jurisdiction according to the rules of trial procedure, it shall refer the case to the court that has jurisdiction over the proposal.

## **2.5. OBJECTION FROM A THIRD PARTY**

### **Terms and Deadline for Objection**

#### **Article 56**

Where a person claims that regarding the subject of enforcement, s/he has rights which prevent the enforcement procedure, s/he may submit a petition on the enforcement against the movable property, declaring the enforcement as not permitted.

A petition may be submitted within 30 days after the day of acknowledgment about the enforcement order, but not later than the completion of the enforcement procedure.

The court shall deliver the petition to the creditor and shall ask him to state his/her opinion about the petition within eight days following the date of delivery of the petition.

### **Referral to Lawsuit**

#### **Article 57**

If the creditor does not state his/her opinion within the prescribed period in regard to the petition, or if s/he opposes to the petition, the court shall refer the person that submitted the petition to initiate a lawsuit against

the creditor within a specific time period in order to declare the enforcement upon that case as not permitted.

The person who submitted the petition may also initiate a lawsuit after the expiration of the deadline given by the court, not later than the completion of the enforcement procedure, but in such case s/he shall be liable for all expenses caused because of the deadline expiration.

The debtor who disputes the rights of a third party may also be included into the complaint pertaining to Paragraph 1 of this Article, in order to determine such rights.

If the enforcement against a specific object has been declared as not permitted with a valid court decision, and upon proposal from the person that submitted the petition, the court shall cancel the enforcement against that object and shall abrogate the already performed activities.

### **Cases When It Is not Possible to Declare the Enforcement Procedures as not Permitted**

#### **Article 58**

As an exception to the provision pertaining to Article 56, Paragraph 1 of this law, a person whose share in the ownership of the movable property, that is subject of the enforcement, is not more than a half of the value of that movable property, can not request the enforcement on his/her share of the movable property to be declared as not permitted, but s/he has a right to receive from the proceeds amount received from sale of the movable property, before settling all other creditors' claims and expenses of the enforcement procedure.

The person pursuant to Paragraph 1 of this Article has the right to request the movable property that is subject of the enforcement to be ceded to him/her, if s/he deposits an amount equal to the value of the debtor's share in the movable property.

The court shall refer the person pursuant to Paragraph 1 of this Article, to whom the share in the movable property is disputed, to initiate a lawsuit by filing a complaint against the creditor in order to determine his/her [the person's] share.

The provisions pertaining to Article 57 Paragraphs 1 through 3 of this law shall also apply to the complaint pursuant to Paragraph 3 of this Article.

## **2.6. COUNTER-ENFORCEMENT**

### **Reasons for Counter-Enforcement**

#### **Article 59**

When the enforcement has already been performed, the debtor may submit a proposal to the court for counter-enforcement, requesting the creditor to return him/her the property obtained by the enforcement, if:

1. the executive title has been abrogated, changed, annulled or invalidated,
2. during the enforcement procedure s/he had settled the creditor's claim,
3. the enforcement order has been abrogated or changed,
4. the enforcement performed on funds maintained on the debtor's account at the Payment Bureau, or enforcement performed by cash payment (Article 195), has been declared as not permitted.

A proposal for counter-enforcement may be submitted within three months following the date when the debtor learned of the reason for counter-enforcement, but not later than one year following the date the enforcement procedure was completed.

The debtor's claim cannot be settled in a lawsuit before the expiration of the above mentioned time period.

### **Procedure Upon Proposal for Counter-Enforcement Article 60**

The court shall deliver the proposal for counter-enforcement to the creditor and shall ask him/her to state his/her opinion about the proposal within eight days following the date the proposal is delivered.

If the creditor opposes the proposal within that time period, the court shall hold a hearing to decide on the proposal.

With a court order for acceptance of the submitted proposal, the court shall order the creditor to return to the debtor the property obtained by the enforcement within 15 days.

Such court order shall be passed even if the creditor does not state his/her opinion on time, or if s/he declares that s/he does not oppose to the proposal.

### **Court Order for Counter-Enforcement Article 61**

Based on a valid court order with which the proposal for counter-enforcement is accepted, the court shall allow the counter-enforcement procedure, upon debtor's proposal, by a court order.

The provisions regarding enforcement shall apply in regard to further procedure.

### **Cases Where Counter-Enforcement Procedure Is not Possible Article 62**

The proposal for counter-enforcement shall not be accepted, if the proposal requests return of movable property on which such factual or legal changes have arisen that the return is not possible.

In this case, the debtor may acquire his/her right in a lawsuit even before the expiration of the time period imposed by Article 59 Paragraph 2 of this Law.

## **2.7. POSTPONEMENT AND TERMINATION THE ENFORCEMENT**

### **1. Postponing the Enforcement Upon Debtor's Proposal Article 63**

Upon debtor's proposal and proofs that debtor will suffer significant damage with the performance of the enforcement procedure, the court shall, fully or partially, postpone the enforcement, if:

1. an exceptional legal remedy or means has been stated against the court enforcement order,
2. a proposal for returning into the previous state was submitted during the procedure in which the judgement was passed on the basis of which the enforcement was permitted
3. a complaint was submitted for annulment of the judgment of the selected court, on the bases of which the enforcement was permitted,
4. a request for protection of legality has been submitted against the valid enforcement order pronounced during the enforcement procedure,
5. a complaint has been submitted for invalidating the mandatory settlement on the basis of which the enforcement has been permitted,
6. the debtor has submitted a petition or a complaint against the enforcement order,
7. the debtor submitted a proposal for abrogating the executive title;
8. the enforcement depends upon the simultaneous performance of creditor's obligation and the debtor has rejected the performance of his/her obligation because the creditor has not performed his/her obligation and has not showed willingness to fulfill it;
9. the debtor or the participant in the procedure has requested removal of the irregularities that occurred during the enforcement procedure.

The court may postpone the enforcement of an accounts receivable upon the debtor's proposal, if the creditor, before the proposal was submitted to the court, submitted to the Payment Bureau an acceptance order as security for the receivable in question, however, if the acceptance order was submitted for payment after the proposal for enforcement, a court may order that the Payment Bureau postpone the payment against the acceptance order until the enforcement procedure is completed.

The court will act pursuant to Paragraph 2 of this Article, where a creditor has submitted a proposal for enforcement on an accounts receivable secured by lien on basis of an agreement between the parties (Article 252).

The court may postpone, upon the debtor's proposal, the enforcement in other cases where justified reasons exist.

The court may condition the postponement of the enforcement with a deposition of a guaranty, in accordance with the circumstances of the case.

### **Upon Creditor's Proposal**

#### **Article 64**

Upon the creditor's proposal, the court may postpone the enforcement, entirely or partially, if the performance of the enforcement has not begun.

If the performance of the enforcement has started, and the debtor has stated his/her opinion against postponing within the deadline determined by the court, the court shall reject the proposal for postponing the enforcement.

Where provided by law that enforcement should be requested within a specific time period, the creditor may submit a proposal for the enforcement postponing within that time.

#### **Upon Proposal from a Third Party**

##### **Article 65**

Upon proposal from the person who requested that the enforcement of certain property be declared as not permitted, the court shall postpone the enforcement in regard to that property if it finds that the person [who submitted the proposal] will suffer significant damage.

The court may condition postponing the enforcement with the deposit of a guarantee depending on the different circumstances of the case.

### **Time for Which the Enforcement Is Postponed**

#### **Article 66**

Where the debtor or a third party used a legal remedy, or other legal action (article 63 and 65), enforcement shall be postponed until the procedure on the legal remedy or action is concluded.

Where the debtor has proposed postponing, the court shall, depending on the circumstances of the case, determine the period of time that enforcement shall be postponed.

When the creditor has submitted a proposal for postponing the enforcement, the court shall postpone the enforcement for the time period proposed by the creditor.

Until the order proposing postponement of the enforcement becomes valid, the court may perform only those enforcement activities which would not make the postponement redundant.

Where the creditor submitted a proposal for postponing the enforcement in a case in which this law foresees that the postponement shall be requested within a specific period of time, the enforcement cannot be postponed beyond that period of time.

### **Extension of the Postponed Enforcement**

#### **Article 67**

The postponed enforcement shall continue *ex-officio*, after the expiration of the time period for which it was postponed.

Upon the creditor's proposal, the court may also continue the enforcement before the expiration of the time period for which it was postponed, provided the creditor can prove that the reasons for postponing have ceased, or that s/he deposits a guarantee.

## **2. Termination of Enforcement**

#### **Article 68**

In addition to other cases provided by this law, the enforcement shall also be terminated *ex-officio* if the executive title has been abrogated, altered, annulled or invalidated.

All undertaken enforcement activities shall be invalidated by the order for termination of the enforcement, provided the rights acquired by third parties are not infringed.

**PART TWO: ENFORCEMENT FOR COLLECTION OF A  
MONETARY CLAIM**

**2.8. ENFORCEMENT AGAINST MOVABLE PROPERTY**

**1. Local Jurisdiction**

**Where the Location of the Movable Property Is Specified in the Proposal  
Article 69**

The court that has jurisdiction over the territory where the movable property is located shall be competent to decide on proposals for the enforcement against movable property and the realization of that enforcement locally.

**Where the Location of the Movable Property Is Not Specified in the  
Proposal**

**Article 70** A creditor may propose that a court pronounce an order for enforcement against movable property without specifying the current location of the property.

The court that has local jurisdiction over the territory in which the debtor has his/her permanent or temporary place of residence shall be competent to decide on such proposals.

In such a case, the creditor may submit the enforcement order to any court with subject matter jurisdiction over the territory in which the debtor's movable property is located , with a proposal that the court implement the enforcement.

**2. Exemption from Enforcement**

**Article 71** The following shall not be subject to enforcement:

1. clothes, shoes, underwear and other personal belongings, linen, kitchen utensils, furniture, stove, refrigerator, washing machine and other household wares, if they are needed by the debtor and the members of his/her household, taking into consideration their living conditions.

2. six months supply of food and wood or coal used for heating by the debtor and the members of his/her household;

3. labor and breed livestock, agricultural equipment and other tools needed by the debtor - farmer for maintaining of his/her agricultural undertaking, to the extend necessary to support him/herself and his/her family, as well as seeds used in that particular undertaking and a four month supply of food for livestock;

4. tools, machines and other objects that the debtor craftsman needs for performing his/her craft, as well as a three month supply of raw materials and fuel;

5. books and other objects which are needed by the debtors who independently and with personal labor, perform a scientific, artistic or other professional activity;

6. the amount of money which is part of the debtor's permanent monthly income and as provided by law is left to the debtor for his/her monthly living costs. A fixed percent of debtor's monthly income will be left to the debtor for his/her monthly living cost.

7. the debtor's decorations, medals, military honor certificates and other decorations or recognitions of honor, a marriage ring, personal letters, manuscripts or annals which belong to the debtor and family pictures; and

8. medical aids given to a disabled person or to some other person with bodily handicap in accordance with regulations and which are necessary for performing his/her life functions;

The exemptions in paragraph 1 of this article shall not apply to enforcement based on an agreement between the contracting parties in accordance with article 249 of this law.

Paragraph 1, items 3 and 4 of this article shall not apply to enforcement for settling monetary claims of banks, arising from special purpose credits for development of agricultural or craft activities, provided that this special purpose has been specifically stated in the credit contract.

Mail parcels and postal monetary transfers addressed to the debtor cannot be subject to enforcement before they are delivered to the debtor.

It may be provided by law that other movable property owned by the debtor cannot be subject to enforcement.

### **3. Enforcement Actions**

#### **Article 72**

The enforcement against movable property is implemented through inventory of the movable property and its evaluation, by selling the property and by settling creditor's claims using the money through sale.

A creditor may submit in his/her enforcement proposal a request only for inventory and evaluation of the movable property, but not a request for a sale. A creditor must submit a proposal for sale within three months following the date of the inventory and evaluation of the movable property.

The enforcement shall be canceled if the debtor does not submit a proposal for sale within this time limit.

### **4. Inventory and Evaluation of Movable Property**

#### **Inventory Notice**

#### **Article 73**

An officially appointed person shall, prior to performing an inventory, deliver to the debtor the order for enforcement, and shall invite him/her to pay

the amount for which enforcement has been allowed, together with interest and expenses.

Where it was not possible to deliver the enforcement order to the debtor at the time of the inventory, it shall be delivered later.

The creditor shall be informed of the time and the place of the inventory, if he submits such a request.

Inventory shall be performed regardless of the absence of either the creditor or the debtor.

The absent parties shall be informed that an inventory was taken.

### **Subject to Inventory**

#### **Article 74**

Movable property owned by the debtor, whether in his/her possession or that of the creditor, is subject to inventory.

Movable property owned by the debtor but in possession of a third party may be inventoried only with consent of the third party.

Where the third party does not consent to the inventory, the court shall transfer to the creditor, upon his/her proposal, the debtor's right to turn over the property (article 129).

### **Range of Inventory**

#### **Article 75**

As much movable property as is necessary to settle the creditor's claims and enforcement expenses shall be inventoried.

Property for which there is no record of right that would prevent the enforcement as well as property that could most easily be transferred in money is inventoried first. The statement of present parties and of third parties shall be taken into consideration.

Where there is a significant disproportion between the value of that property and the amount claimed by the debtor, the court may, upon proposal from the creditor, permit enforcement on movable property, other than that inventoried.

### **Safe-keeping of the Inventoried Property**

#### **Article 76**

An officially appointed person shall leave the inventoried movable property with the debtor for safe-keeping provided that, upon creditor's proposal, the court did not order that the inventoried movable property be handed over to the creditor or to a third party for safe-keeping.

The risk of destruction or damage to movable property handed to the creditor or to a third party for safe-keeping is borne by the creditor, except where the destruction or damage was the result of force majeure.

The inventoried movable property left for safe-keeping with the debtor shall be clearly marked to indicate that it has been inventoried.

Cash money, securities and other valuables shall be deposited with the court.

Other movable property with a high value shall also be deposited with the court, provided that it is suitable for such a manner of safe-keeping.

### **Ban for Disposition of Inventoried Movable Property**

#### **Article 77**

The debtor is forbidden from disposing of inventoried movable property.

This ban is contained in the enforcement order, which includes a warning to the debtor concerning the criminal-legal consequences arising from actions contrary to the ban.

### **Acquisition of Pledge on Movable Property**

#### **Article 78**

A creditor shall acquire pledge on movable property by inventory.

If inventory is performed in favor of several creditors, the order of priority of pledges, acquired by inventory or by entering a remark into the inventory minutes ( article 82), shall be determined according to the date of inventory or the date when the remark was entered into the inventory minutes.

If inventory is performed simultaneously in favor of several creditors, the order of priority of pledges is determined according to the date the enforcement proposal was received. Where the enforcement proposals were received on the same date, the pledges shall have equal priority.

If the enforcement proposal is sent by registered mail, the date of delivery to the post office is deemed to be the date of receipt by the court.

### **Unsuccessful Inventory**

#### **Article 79**

If there is no movable property to be inventoried for the purpose of enforcement, the creditor who did not attend the inventory, shall be notified thereof by the court.

The creditor may propose that inventory be performed again within three months following the date of receiving such notification, or following the date of the inventory that he attended.

If the creditor fails to propose that an inventory be performed again within that time limit, or if there is no movable property to be inventoried at a subsequent inventory for the purpose of enforcement, the court shall terminate the enforcement.

### **Evaluation**

#### **Article 80**

Evaluation and inventory of movable property shall be performed contemporaneously.

Evaluation shall be performed by the officially appointed person who is performing the inventory, provided the court did not order that an expert perform the evaluation.

A party may propose that the evaluation be performed by an expert even though the court did not order this. Should the court accept this proposal, the expenses for the expertise shall be covered by that party regardless of the outcome of the enforcement procedure.

A party may propose within eight days following the date of the performed evaluation, that the court find the inventoried movable property value lower or higher than the already evaluated one or determine a new evaluation.

The order for proposal pertaining to paragraph 4 of this article may not be appealed.

### **Minutes of Inventory and Evaluation**

#### **Article 81**

Minutes are prepared of the inventory and the evaluation.

Individually inventoried movable property and their evaluated value shall be separately specified in the minutes as well as the statements of parties and participants in the procedure and the statements of third parties as to the existence of rights that would prevent the enforcement.

### **Remark Instead of Inventory**

#### **Article 82**

If after the inventory, an enforcement is allowed against the inventoried movable property for the same creditor to collect another claim, or for another creditor to collect a claim, the inventory and evaluation of the inventoried and evaluated movable property shall not be performed, but as an addition to the existing minutes, information from the later enforcement order shall be entered.

## **5. Sale of Movable Property**

### **Time of Sale**

#### **Article 83**

Inventoried movable property may be sold only after the enforcement order effective, except if (i) the debtor agrees that the sale occur earlier, (ii) the inventoried property is perishable, or (iii) there is a risk that the prices of the inventoried property may fall significantly.

Not less than 15 days must pass between the date of the inventory and the date of the sale.

The sale may be performed before the expiration of this time period, pursuant to paragraph 1 of this article.

### **Manner of Sale**

#### **Article 84**

The sale of movable property is performed by oral public auction, or by direct agreement between the buyer and an the officially appointed person or other person who performs commission business.

The manner in which the movable property is sold shall be determined by the court, ensuring that the most money is received for the movable property.

The court shall order a bid auction if movable property of high value is subject to sale and it is expected the movable property to be sold at a price higher than the assessed value.

The sale of movable property shall be announced on the court bulletin board in a timely manner; it may also be announced in some other common manner.

The creditor and debtor shall be notified of the place, date and hour of the sale.

### **Selling Price**

#### **Article 85**

Inventoried movable property may not be sold for less than its assessed value at the first auction or for a sale by direct agreement, within the time period determined by the court.

If the price obtained at the first auction was less than the assessed value the court shall order, upon proposal from a party, another auction and, at this auction, movable property may be sold for less than the assessed value, but not lower than one third of that value.

The provision pertaining to paragraph 2 of this article shall apply where the inventoried movable property was not sold by direct agreement at the assessed value, within the time period determined by the court.

A party may propose a second auction within 30 days following the date of the first auction, or for sale by direct agreement, following the expiration date set by the court.

### **Termination of Enforcement**

#### **Article 86**

The court shall cancel the enforcement if (i) neither party submits a proposal for a second auction within the statutory time period, or neither party submits a proposal for performing a second sale by direct agreement, or (ii) the movable property could not have been sold at the second auction, or by direct agreement within the additional time period set by the court.

Movable property not sold at second auction shall be governed by Article 169 Paragraph 1 of this Law.

## **Obligations and Rights of the Buyer**

### **Article 87**

The buyer is obliged to deposit the sale price and take possession of the movable property immediately after the conclusion of the auction, or direct sale.

Upon creditor's consent and at creditor's own risk, the officially appointed person may, up to the amount of the obtained price to which the creditor is entitled, turn over the movable property to the buyer who did not deposit the sale price.

The buyer, in any case, shall be the owner with the right to dispose of the purchased movable property.

The buyer shall not be entitled to a guarantee against defects in the movable property.

## **6. Settling of Creditor's Claims**

### **Single Creditor**

#### **Article 88**

If only a single creditor's claim shall be settled from the selling price, the court shall determine, by an order, without a hearing, that the following be settled from the obtained price of the movable property at the sale and from the confiscated money: (i) expenses of the enforcement procedure, (ii) expenses specified in the executive title, (iii) the interest up to the date of transformation of movable property into money, and (iv) the main claim.

If there is no hindrance, the surplus from the selling price which remains after settling the creditor's claims, shall be given to the debtor.

### **Several Creditors**

#### **Article 89**

If the law does not determine the right of priority in settling certain claims, several creditors' claims shall be settled from the selling price in the order in which they acquired the pledge.

Creditors' claims of the same priority that can not be fully settled from the selling price, shall be settled in proportion to the amounts of each claims.

Expenses of the enforcement procedure, expenses specified in the executive title and interest shall be settled in the order in which the main claim is settled.

When passing the order for settlement, the court shall consider only those claims for which the enforcement order has come into effect up to the date of the sale of the inventoried movable property.

### **Realization of Provisions for Enforcement Against Real Estate**

#### **Article 90**

Provisions of this law on enforcement against real estate related to the issues of who can not be a buyer (article 162), denial of a claim, referral to a trial and the settling order (articles 176, 177 and 183) shall be applicable in accordance and in regard to the enforcement against movable property for the purpose of settling a monetary claim.

## **2.9. ENFORCEMENT AGAINST DEBTOR'S MONETARY CLAIM**

### **1. Local Jurisdiction**

#### **Article 91**

The decision on an enforcement proposal against a monetary claim and realization of that enforcement shall be pronounced by the court with jurisdiction over the territory in which the debtor has his/her permanent residence. If the debtor has no permanent residence in the Republic of Macedonia, the decision on an enforcement proposal against a monetary claim and realization of that enforcement shall be pronounced by the court with jurisdiction over the territory in which the debtor has his/her temporary residence.

If the debtor has no temporary residence in the Republic of Macedonia, the court with jurisdiction over the territory in which the debtor's debtor has his/her permanent residence shall have local competence. If the debtor's debtor has no permanent residence in the Republic of Macedonia, the court with jurisdiction over the territory in which the debtor's debtor has his/her temporary residence shall have local competence.

The provisions pertaining to paragraphs 1 and 2 of this article related to the permanent and temporary residence of the debtor shall also apply to the head offices of legal entities.

### **2. Exemption from Enforcement and Limitation of the Enforcement**

#### **Exemption from Enforcement**

#### **Article 92**

The following are exempted for enforcement :

1. allowance for statutory life support, compensation for damages that result from health problems, decrease or loss of working capacity, and compensation for damages that result from the loss of life support because of the provider's death;

2. allowance for compensation for bodily injury according to the regulations for disability insurance;

3. allowance for social benefits;
4. allowance for temporary unemployment;
5. child allowance [salary additions for each child];
6. scholarship, credit or support for pupils and student;
7. allowance for soldiers and cadets of military schools;
8. allowance received by convicts for their work in a penal rehabilitation institution [prison], except for claims for statutory life support and claims for compensation of damages that result from the convicts' criminal offences;
9. allowance for decorations, medals, military honor certificates and other decorations or recognitions of honor; and
10. allowance for travel expenses and per diem.

### **Limitation on Enforcement**

#### **Article 93**

The enforcement against salary, pension and compensation, instead of a salary, for settling a claim for statutory life support, for compensation for damages that result from health problems, decrease or loss of working capacity, and for settling a claim for compensation for damages that result from loss of life support because of the provider's death, is limited to one half of the salary or pension; for settling other claims enforcement is limited to one third of the salary or pension.

If the debtor has the lowest salary [guaranteed by law], in accordance with a collective bargaining agreement and the law, the enforcement for settling the claim pertaining to paragraph 1 of this Article is limited to one third, or up to one fourth of that lowest salary [guaranteed by law], respectively.

The provision pertaining to paragraph 1 of this article shall also apply upon salary of a junior officer, officer, military servant, as well as upon the allowance of persons from the reserve military structure during military exercises.

The enforcement against the allowance for disability of military and peacetime military disabled persons, orthopedic allowance and disability supplement, may be performed only to settle claims for statutory life support, compensation for damages that result from health problems, decrease or loss of working capacity, and compensation for damages that result from loss of life support because of the provider's death, subject to limitation of one half of the compensation [allowance or supplement].

Enforcement against agreements to provide life-long support, life-long payments [*periodic*], and allowances for life insurance agreements, may be performed only upon that part which exceeds the amount of the highest continuous social benefit paid in the territory in which the debtor has his/her permanent residence.

**3. Enforcement Activities**  
**Manner of Realization of the Enforcement**  
**Article 94**

Enforcement against a monetary claim is realized by ban and by transfer, except as otherwise provided by this law for specific cases.

The enforcement proposal may request that only a ban for monetary claim be ordered, but in such case, the creditor must submit a proposal for the transfer of the claim within three months following the date of receipt of the ban order, or from the date of receipt of the notification of the debtor's opinion stating (article 101 paragraph 3) a proposal for assignment of the claim.

The enforcement shall be canceled if the creditor does not submit such a proposal within the prescribed time period.

**Scope of Enforcement**  
**Article 95**

A ban on and a transfer of a monetary claim may be permitted and realized only for the amount necessary to settle the creditor's claim, except where an indivisible claim is subject to settlement (article 106).

If several creditors request enforcement on the same divisible claim, a ban and a transfer is determined in the appropriate amount, separately for each creditor.

**4. A Ban on a Claim**  
**Activity**  
**Article 96**

By an order with which a ban on monetary claim is allowed (ban order) the debtor's debtor is prohibited, from settling the debtor's claim and the debtor is prohibited from collecting this claim or to otherwise dispose of it and of the collateral which was given for securing that claim.

The ban is considered realized on the date in which the ban order was delivered to the debtor's debtor.

The creditor acquires the pledge against the debtor's claim by the ban provided this was banned upon his/her proposal.

The ban order may not be appealed by the debtor's debtor.

**A Ban on Claims Against Securities**  
**Article 97**

The ban on: (i) a claim based on securities which are transferred by endorsement or (ii) a claim the realization of which requires securities shall be performed in such a manner that the officially appointed person shall deprive the debtor of the securities and deposit them with court.

Upon a resolution by the court the legal actions necessary to retain or perform the rights arising from the securities pertaining to paragraph 1 of this

article and the legal actions shall be performed by the officially appointed person on behalf of the debtor.

### **A Ban on Claims Against Savings Deposit**

#### **Article 98**

As an exception to article 97 of this law, a ban on claims against savings deposit in a bank or in some other [financial] organization may be realized without depriving the debtor of the savings book.

If the creditor fails to provide the necessary information concerning the debtor's savings deposit in the enforcement proposal, the court shall require this information from the [financial] organization where the deposit is, [the name of which the creditor must specify in his/her proposal.

The [financial] organization must provide the requested information to the court without delay and without informing the debtor that such information was requested.

If the debtor has not been previously deprived of the savings book, the ban shall be realized on the day in which the ban order was delivered to the [financial] organization where the savings deposit is located.

As an exception to article 38 paragraphs 1 and 2 of this law, the court shall deliver the ban order to the debtor only after the [financial] organization where the savings deposit is informs the court that the ban has been realized.

### **Pledge Against Interest**

#### **Article 99**

The pledge acquired against a claim on which interest is accumulating shall also apply to the interest maturing after the ban.

### **Priority**

#### **Article 100**

The priority of pledges of several creditors shall be determined according to the date the enforcement proposal is received by the court.

If an enforcement proposal is sent by registered mail, the date of delivery to the post office shall be deemed the date of delivery to the court.

Where enforcement proposals of several creditors have been received by the court on the same date, their pledges shall have same priority.

In such cases, claims shall be proportionally settled, if full settlement is not possible.

### **Stating Debtor's Opinion**

#### **Article 101**

Within a time period prescribed by the court and upon proposal by the creditor, the court shall request the debtor to state his/her opinion concerning whether and up to what amount s/he recognizes the banned claim

and whether s/he agrees to settle it, as well as whether his/her obligation to settle the claim is conditioned by the realization of some other obligation.

The creditor may submit the proposal for the stating of debtor debtor's opinion with the enforcement proposal, or s/he may submit the proposal in a separate motion, not later than the day on which the transfer is realized.

The statement of the debtor's debtor opinion shall be delivered to the creditor without delay.

### **Liability of Debtor's Debtor**

#### **Article 102**

The debtor's debtor shall be liable for damages suffered by the creditor as a result of the debtor's debtor failure to state his/her opinion, or for stating his/her opinion untruthfully or incompletely.

The court shall inform the debtor's debtor of such liability.

### **Ban on Claims Secured by Pledge Registered in a Public Registry**

#### **Article 103**

A ban on claims secured by pledges recorded in a registry where mortgages are recorded is realized by entering the ban into that registry.

The recording is performed *ex-officio* and specifies that the ban, on the basis of which the pledge against the claim is acquired, was determined for settling the creditor's claim.

If there are several creditors, priority of claims is determined according to the time of registration.

## **5. Transfer of a Claim**

### **a) General Provisions**

#### **Type of Transfer**

#### **Article 104**

The banned claim is transferred to the creditor for collection or payment pursuant to his/her proposal.

#### **Transfer Order**

#### **Article 105**

Order for the transfer of a claim may be entered only after the ban order becomes valid.

If the creditor requests the debtor's debtor to state his/her opinion on a claim against which enforcement is proposed, the court shall not enter an order for transfer earlier than eight days following the date on which the creditor was notified of the debtor's debtor opinion.

### **Special Conditions for Transfer of an Indivisible Claim Article 106**

Claims on securities must be transferred in their entirety if (i) they are transferred by endorsement; (ii) it is necessary to submit the securities for realization, or (iii) if for other reasons their division in regard to transfer or realization is prevented.

If this amount exceeds the creditor's claim, the banned claim shall not be transferred until the creditor submits a guarantee that s/ he shall deposit the excess amount with the court.

The claims which are partially exempt from enforcement or which are already banned in favor of another party, shall not be transferred until the creditor submits a guarantee that s/he shall deposit that part which is exempt from enforcement with the court.

If several creditors submit proposals for transfer on different dates, the court shall transfer the claim to the creditor who submitted the proposal first. If several creditors submitted proposals on the same date, the claim shall be transferred to the creditor whose claim is the largest.

### **Realization of Transfer**

#### **Article 107**

Transfer of claims shall be realized when the court order that allows the transfer has been delivered to the debtor's debtor.

Transfer of claims on securities that are transferred by endorsement or in cases in which is necessary to submit the securities for the realization, shall be realized when the court attaches [in writing] to the securities a statement of transfer and delivers such document to the creditor.

### **Obligations of Debtor and Creditor**

#### **Article 108**

Upon proposal by the creditor, the debtor must within the time period ordered by the court give an explanation required by the creditor, made to realize the claim, and to deliver to the creditor the documents regarding the claim.

Upon debtor's request, the creditor, to whom a part of the claim has been transferred, must deposit within the time period ordered by the court a guarantee after it has been realized that s/he shall return the documents regarding the claim.

Upon the creditor's request, the court shall realize an enforcement against the debtor for the purpose of delivering the documents, in the event the debtor does not deliver them him/herself.

If the creditor may demand delivery of documents in possession of a third person, by way of complaint the debtor would have that right.

The court shall specify in the document delivered to the debtor that a transfer of the claim for which enforcement has been allowed was realized.

### **Claim Depositing With the Court**

#### **Article 109**

If parties other than the creditor claim rights to the transferred claim, the debtor's debtor may, in favour of all these persons, deposit with the court the full amount or just the matured amount of the claim that has matured.

### **Authorization of a Creditor**

#### **Article 110**

The creditor is authorized to request by a transfer of a claim for collection that the debtor's debtor pay the amount specified in the order for transfer to the extent it has matured; that s/he perform any activities required for the maintenance and realization of the transferred claim; the creditor be permitted to use the rights in the collateral which have been given to secure the claim.

The creditor is not authorized by transferring a claim for collection to agree on settlement at the cost of the debtor; to pardon [waive] debtor's debt nor to otherwise dispose of the transferred claim, or to agree with the debtor's debtor that a selected court decide the claim.

The debtor's debtor may only raise a petition to the creditor to whom the claim for collection has been transferred, which s/he could raise to his/her debtor.

Assignment of the transferred claim, performed by the debtor, after the transferring, shall have no legal effect on the rights that the creditor acquired by the transfer.

### **A Transfer for Collection of a Claim Recorded in a Registry**

#### **Article 111**

Transfer of claims for collection that are recorded in a registry where mortgages are recorded shall be recorded in the line of duty [ex-officio].

### **Conditioning of Debtor's Debtor's Obligation by Delivering the Movable Property**

#### **Article 112**

If the debtor's debtor's obligation to pay the claim is conditioned by debtor's obligation to deliver particular movable property in his/her possession, and such obligation arises a valid judgement, upon the creditor's proposal to whom the claim for collection was transferred, the court shall order that the debtor hand the property to the court for the purpose of handing it to the debtor's debtor.

Upon proposal from the creditor, the court shall, within the specified time period, realize enforcement against the debtor who has not handed the movable property for the purpose of delivering it.

**Notifying the Debtor of the [Filed] Complaint for Collection of a Transferred Claim**

**Article 113**

The creditor that has filed a complaint for collection of a transferred claim is obligated to inform the debtor about the initiated lawsuit without delay. Should the creditor fail to do so, s/he shall be liable to the debtor for the damages caused by that irregularity.

**Default in Collection of a Transferred Claim**

**Article 114**

A creditor that does not take proper care for the collection of a transferred claim shall be liable for all damages caused to another creditor for whose claim, the debtor's claim was banned, or to the debtor. In such case, upon the creditor's request, the court may abrogate the order transferring the claim to the negligent creditor and to transfer the claim to another creditor.

**Settlement of the Creditor's Claim**

**Article 115** The claim of the creditor, who received transferred claim for collection shall be settled to the amount in which s/he collected that claim.

**Collection of amounts Exceeding the Creditor's Claim**

**Article 116**

To extent the creditors collect from the transferred claim more than the amount of their claim, they shall be obligated to deposit the excess amount with a court.

The court shall distribute this excess amount to other creditors and to the debtor, if they are entitled to it.

The court shall return the deposited guarantee to the creditor that has deposited the amount collected in excess.

**c) Transfer Instead of Payment**

**Article 117**

A banned claim shall be transferred to the creditor instead of a payment, up to the transferred amount, with the effect of ceding the claim with compensation.

If the transferred claim is secured with a mortgage recorded in the Registry where mortgages are recorded, the court shall ex officio transfer the

debtor's rights [arising from the mortgage] to the creditor, and shall erase the mortgage recorded in favor of the debtor.

The claim of a creditor to whom the claim has been transferred instead of payment, shall be considered settled with that transfer to the amount of that claim.

The provision pertaining to Paragraph 3 of this article shall not infringe the regulations for debtor liabilities whether or not the transferred claim is true and collectable.

**6. Special Provisions for Enforcement Against Salary and Other  
Continuous Allowances  
Applications of the Provisions from this Title**

**Article 118**

The provisions from this title shall apply to the enforcement against salaries, unless otherwise provided by the provisions of this law.

**Enforcement Order**

**Article 119**

A ban [for disposition] over a certain amount of the salary shall be determined with the order for enforcement against salary. A governmental body, a legal entity or other institution or community that pays the debtor, shall be ordered to pay the creditor, in full or in installments, the amount of money for which the enforcement is permitted once the enforcement order becomes valid.

For the purposes of this Law, salary shall be defined as all allowances received by an employee based on current and past labor.

**Salary Increases**

**Article 120**

The enforcement order shall apply to increases in salary that occur after the delivery of the enforcement order.

**Multiple Persons Entitled to Support**

**Article 121**

Where several persons are entitled to legal support or to an annuity for lost support as a result of a particular provider's death [that has to be provided] and the total amount of their claims exceeds the amount of the salary that can be subject of enforcement, the enforcement shall be permitted and performed in favor of each of the creditors in proportion to the amount of their claims.

If a new proposal for enforcement of the claims pertaining to Paragraph 1 of this Article is submitted, after the initiation of the enforcement against salary, or against other continuous [monetary] allowance, the court shall alter

the previous enforcement order, pursuant to Paragraph 1 of this Article, and shall determine the amount to be paid to the certain creditors in the pursuant to Paragraph 2 of this Article.

The enforcement order pursuant to paragraph 2 of this article shall also be delivered to the previous creditor, who may appeal this order.

### **Place of Payment**

#### **Article 122**

The claim for which only cash payment is prescribed shall be collected by the creditor directly at the cashier's desk where the debtor's salary is paid [to him/her]. The creditor may request that the withheld salary be delivered by mail to a specified address at his/her own expense. Mailing expenses shall be subtracted from the amount delivered.

### **Termination of Employment**

#### **Article 123**

If an employee against whom an enforcement order is entered changes employment, the enforcement order shall also be valid against the employee's subsequent employer, effective on the date on which the enforcement order was delivered to the new employer.

The employee's previous employer shall be obligated to deliver the enforcement order, without delay and by registered mail, to the employee's new employer and to inform the court of this.

The employee's previous employer shall inform the court without delay if it is not informed which legal entity employed the employee. The court shall notify the creditor, leaving him/her a time period during which s/he can inform the court which legal entity employed the debtor.

The court shall terminate the enforcement if the creditor fails to comply with Paragraph 3 of this Article.

### **Liability for Failure to Withhold and Payment of Matured Installments**

#### **Article 124**

The creditor may propose during the enforcement procedure that the court order the legal entity to settle the creditor's claim by paying all the installments that it failed to withhold and pay according to the enforcement order.

The creditor may submit the proposal pursuant to Paragraph 1 of this Article up to the conclusion of the enforcement procedure.

The order in which the creditor's proposal is accepted shall have the effect of an enforcement order.

The legal entity that fails to comply with the enforcement order or that fails to comply with Paragraphs 2 and 3 from Article 123 of this law shall also be liable for the damages that the creditor suffered as a consequence of this.

## **Prohibition With Debtor's Consent**

### **Article 125**

A prohibition against the debtor's salary with his/her consent (administrative ban) shall have the legal effect of an enforcement order upon the salary.

As an exception to Paragraph 1 of this Article, an administrative ban shall not affect implementation of the enforcement against salary for settling a claim based on legal support, compensation for damaged health or decrease or loss of working capacity, nor compensation for damages based on lost support as a result of death of the provider of the support.

## **Application of the Provisions from This Section**

### **Article 126**

This Section shall also apply to enforcement against allowances based on employment with other persons, as well as allowances based on social insurance and other continuous monetary allowances.

## **7. Enforcement of a Claim on a Bank Account**

### **Article 127**

The court shall permit enforcement against a monetary claim that, according to a transfer account, a foreign currency account or other accounts belongs to a natural person or legal entity with an order. The order shall direct the bank to pay the creditor the amount for which enforcement was allowed once the order becomes valid.

The order pursuant to Paragraph 1 of this Article shall have the effect of a prohibition, as well as a transfer for collection.

The provisions pertaining to Paragraphs 1 and 2 of this Article shall not apply to a claim on savings deposits.

## **2.10. ENFORCEMENT AGAINST A CLAIM TO HAND OR DELIVER MOVABLE PROPERTY OR TO HAND REAL ESTATE**

### **1. General Provisions**

#### **Local Jurisdiction**

### **Article 128**

Decision on proposal for enforcement against the debtor's claim, particular movable or immovable object to be handed to him/her or certain number of movable objects to be delivered to him/her and realization of that enforcement, shall be ruled by the court that has local jurisdiction over the territory where the property is located.

## **Manner of Realization of Enforcement**

### **Article 129**

The enforcement against the debtor's claim pertaining to article 128 of this law shall be realized by a ban on that claim, by its transfer to the creditor and by selling the property.

### **Effect of the Transfer**

#### **Article 130**

Transfer of the banned creditor's claim shall have the effect of a transfer of creditor's monetary claim for the purpose of payment.

### **When Debtor's Claim Is not Due and a Complaint Is Filed Against Debtor's Debtor**

#### **Article 131**

Where the debtor's claim has not matured yet, the court shall order that the movable property be handed after the claim has matured.

Against the debtor's debtor who does not want to hand the property, and after the order for transfer of the claim has become valid, the creditor may file a complaint for handing, provided that there is no executive title in regard to the handing obligation.

**Application of Provisions for Enforcement Against Monetary Claim**  
**Article 132** Provisions for enforcement against monetary claims shall also apply on enforcement against claims to hand or deliver movable property, or to hand real estate, where provisions pertaining to this title do not determine otherwise.

## **2. Movable Property**

### **Handing Movable Property for Safe - keeping**

#### **Article 133**

The court shall order, by the order in which the transfer of the debtor's claim is permitted, that the debtor's debtor hand the claimed movable property, to the officially appointed person or to some other person, for safe - keeping.

Provisions pertaining to article 76 of this law shall apply in regard to the safe-keeping of movable property.

### **Sale of Movable Property and Settling Creditor's Claims**

#### **Article 134**

The sale of movable property, handed to an officially appointed person or to a safe-keeper pursuant to article 133 of this law, as well as settling

creditor's claims, shall be performed in accordance with the provisions for enforcement against movable property provided by this law.

### **3. Real Estate**

#### **Handing to the Creditor Article 135**

The court shall order, by the order in which the transfer of the debtor's claim is permitted, that the debtor's debtor hand the claimed real estate to the creditor.

The creditor shall be obliged, in the name of the debtor and on debtor's account, to manage the real estate as if it were his/her own property <sup>1</sup> or as a reasonable businessman would manage it, and upon request from the court to present a report of this management.

#### **Sale**

#### **Article 136**

For the purpose of settling his/her claim, and not later than 30 days following the date when the real estate was handed to the creditor, the creditor may submit a proposal for sale of the real estate.

If the creditor does not submit the proposal for sale on time, the court shall cancel the enforcement.

#### **Application of Provisions for Enforcement Against Real Estate**

#### **Article 137**

Sale of real estate, as well as settling creditor's claims, shall be performed in accordance with the provisions pertaining to this law for enforcement against real estate.

### **2. 1. 1. ENFORCEMENT AGAINST OTHER PROPERTY RIGHTS**

#### **Local Jurisdiction**

#### **Article 138**

The decision on the enforcement proposal against: *(i)* copyrights, *(ii)* patent, *(iii)* technical innovation, *(iv)* usufructus or other similar debtor's right and realization of that enforcement, shall be local competence of the court that has jurisdiction over the territory where the permanent residence of the debtor is located, and if the debtor has no permanent residence in the

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<sup>1</sup> Principles regarding the duty of care in Macedonia

Republic of Macedonia the court that has jurisdiction over the territory where the temporary residence of the debtor is located shall have local competence.

The provision pertaining to paragraph 1 of this article related to the permanent residence, shall also apply to the head of legal entity.

### **Manner of Realization of the Enforcement**

#### **Article 139**

The enforcement against a right pursuant to article 138 of this law shall be realized by ban on disposal over that right, and by transforming that right into money, in conformity with the provisions for sale of movable property and settling creditors' claims.

## **2.12. ENFORCEMENT AGAINST REAL ESTATE**

### **1. General Provisions**

#### **Local Jurisdiction**

**Article 140** The decision on the enforcement against real estate and realization of that enforcement, shall be local competence of the court that has jurisdiction over the territory where the real estate is.

#### **Enforcement Activities**

#### **Article 141**

The enforcement against real estate shall be realized by recording the enforcement order in the registry, by determining the value of the real estate, by selling the real estate and by settling creditors' claims from the amount obtained by the sale.

#### **Proof of Ownership by the Debtor**

#### **Article 142**

Together with the proposal for enforcement against the real estate, it is necessary that the creditor submit a registry certificate to proof that the real estate is recorded in the registry as debtor's property, or that the debtor has right to dispose over the real estate that is in social ownership.

If the right to the real estate pursuant to paragraph 1 of this article is recorded in the registry as some other person's [right], not as debtor's, the creditor has to submit a document suitable for recording the debtor's right, in accordance with the regulations relating to measuring, cadaster and registering rights over real estate.

In the case pertaining to paragraph 2 of this article, the recording shall be performed ex-officio by the body that is responsible for the registry, upon request of the court where the enforcement proposal was submitted.

The creditor who can not present a document that is suitable for recording the debtor's right may file a complaint requesting that this right be recorded to the debtor.

After the recording order has become valid, the enforcement procedure shall continue.

### **Proposal by the Debtor That the Enforcement Be Determined with Other Means or Against Other Real Estate**

#### **Article 143**

The debtor may propose within eight days following the date of delivery of the enforcement order that some other means of enforcement be determined, or that the enforcement be performed against other real estate.

The court shall deliver the proposal to the creditor and the creditor can state his/her opinion about it [the proposal] within eight days following the date of delivery.

After the creditor has stated his/her opinion, or after expiration of the time period for stating the opinion, the court shall pass an order regarding the proposal.

The court shall accept the proposal provided that the debtor can make plausible that the claim will be settled by other means of enforcement, or by sale of other real estate.

If the debtor proposes as other means of enforcement the enforcement against salary, pension, disability compensation, or some other permanent monetary allowance, the court shall accept the proposal provided that the debtor can make plausible that the claim shall be settled within one year following the date the order regarding the debtor's proposal become valid.

If some other means of enforcement was determined, the enforcement order against the real estate recorded in the registry shall be valid until settling the creditor's claim.

### **Recording the Enforcement**

#### **Article 144**

The enforcement order against the real estate shall be recorded in the registry.

The creditor shall, by the record of the enforcement order in the registry, obtain a right to settle his/her claim from the real estate (right to settlement) even in a case where a third party obtained an ownership right of the same real estate, or a right to dispose over that real estate after him/her.

A creditor who has proposed enforcement prior to obtaining the right arising from mortgage [lien] shall, by the record of the enforcement order in the registry, obtain a right to settle his/her claim from the real estate before

other creditors who have obtained the right arising from the mortgage [lien] on the real estate or right to settle their claims after him/her.

### **Including [Other Creditors] in the Enforcement**

#### **Article 145**

After the enforcement order has been recorded in the registry, a separate enforcement procedure against the same real estate cannot be realized for the purpose of settling another claim of the same creditor or of another creditor.

Where enforcement for settling other creditor's claim against the same real estate has been permitted after [the enforcement procedure has been initiated], this creditor shall be included in the already initiated enforcement procedure.

Creditors may be included in the already initiated enforcement procedure only before the order by which the real estate shall become the buyer's ownership has become valid.

The court shall notify the creditor in favor of whom the enforcement procedure was previously recorded in the registry that another creditor has been included in the enforcement procedure.

### **Settling Mortgagee's Claim**

#### **Article 146**

A claim of the mortgagee who has not proposed enforcement is also settled with the enforcement procedure against real estate.

The court shall be duty-bound to know if on the real estate which is the subject of enforcement there is mortgage in favor of another creditor who has not proposed enforcement.

The court shall inform the creditor upon whose request the enforcement has been proposed of the joining [of other creditors] to the procedure (paragraph 1 of this article).

### **Termination of the [the Right Arising from the Mortgage] Lien**

#### **Article 147**

The right arising from the mortgage on real estate recorded in the registry shall terminate on the date when the order for handing the real estate becomes valid (article 167 ), and if the mortgagees' claims are not fully settled.

The buyer of the real estate and the mortgagee may agree that the right arising from the mortgage remain over the real estate even after handing the real estate [to the buyer], and the that mortgagee's claim be transferred to the buyer, in the amount that the mortgagee would obtain with the enforcement procedure.

In such case, the selling price shall be reduced for the amount of the debt that was transferred.

## **Easement and Real Burdens**

### **Article 148**

When the real estate is sold the easement over it shall not terminate.

When the real estate is sold the personal [private] easement and the real burden<sup>2</sup> Real burden means that the owner of the real estate has to take active actions in favor of the person who has the right of easement. registered in the registry before the rights of the mortgagees and the rights to settling the claim of the mortgagee upon whose proposal the enforcement was determined shall not terminated.

Other personal [private] easement and real burden shall terminate when the real estate is sold, if it was not otherwise agreed between the holder of these rights and the buyer.

## **Tenancy Right [Right to Occupy an Apartment]**

### **Article 149**

When a socially - owned apartment or the building where the apartment is located is sold the tenancy right [right to occupy the apartment] shall not terminate, unless otherwise determined by law.

The buyer obtains the rights and obligations of a provider of an apartment for use.

## **Lease of an Apartment House, Apartment and Business Building, and Premises**

### **Article 150**

When an apartment house or an apartment, a business building or business premises is sold, the lease for that apartment house, apartment or premises shall not terminate.

The buyer obtains the rights and obligations of a lease provider.

## **Viewing of Real Estate**

### **Article 151**

Upon request from the person interested in buying the real estate the court shall allow him/her to view the real estate.

## **Exemption from Enforcement**

### **Article 152**

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<sup>2</sup>The distinction between easement and real burden as determined by Professor Dr. Asen Grupche in his "Civil Law, part two" is as follows:

Easement is characterized by bearing somebody else's action. Easement is characterized by a passive behavior of the person that owns the real estate. S/he is not obliged to take any action in favor of the person who has the right of easement.

- The following cannot be subject to enforcement:
1. agricultural land and business buildings of an agrarian, to an extent that will secure support for him/her and the members of his/her family and other individuals who, by law, has to be supported by the agrarian;
  2. the house where they live and the courtyard.

The provision pertaining to paragraph 1 of this article shall not apply on enforcement for realization of monetary claims based on contractual lien over the real estate (mortgage).

### **3. Determining the Value of the Real Estate**

#### **Manner of Determining the Value**

#### **Article 153**

The court shall determine the value of the real estate within eight days following the date when the enforcement order became valid.

Determination of the value may start even before the enforcement order became valid, if requested by the creditor, and if s/he declares that s/he shall bear the costs for determining the value, in case the enforcement is canceled.

The court shall appoint an expert who will, within 15 days, perform and submit to the court an evaluation of the value of the real estate based on its market value on the day of the evaluation and other factors that impact its value. If requested by the expert, the court may extend this time period, but not to exceed 30 days.

When determining the value of the real estate the devaluation of the property due to certain rights remaining over the real estate after the sale, shall also be taken into consideration.

Upon party's proposal, submitted not later than eight days before the date of the first sale, the court shall, at the first sale, determine again the value of the real estate by a resolution, provided that the party makes plausible that this value has significantly changed from the date of the previously determined value until the date of the sale.

#### **Order for Determining the Value**

#### **Article 154**

The value of the real estate is determined by the court, in an order, within eight days following the date of receipt of the expert evaluation.

An appeal can be submitted against this order by the debtor or any person who has the right to settle his/her claims from the selling price of the real estate.

#### **Cancellation of the Enforcement Upon Proposal**

#### **Article 155**

Any person who has the right to settle his/her claims from the selling price of the real estate, and has priority over the creditor who proposed the enforcement, may propose that the enforcement be canceled if the determined value of the real estate does not cover, even to some extent, the amount of that creditor's claims.

The proposal for cancellation of the enforcement may be submitted within eight days following the date of delivery of the resolution for sale.

Depending on the circumstances of the case, the court shall assess whether the sale is purposeful, taking into consideration the most probable amount needed for settling, to some extent, the claims of the creditor who proposed the enforcement.

#### **4. Sale of Real Estate Resolution for Sale Article 156**

After the order for determining the value becomes valid, the court shall within eight days pass a resolution for the sale of the real estate determining the manner and conditions of the sale, as well as the time and the place, if the sale is performed by auction.

The court may pronounce a resolution for sale of the real estate even before the order for enforcement becomes valid, if this is requested by the creditor and if the creditor makes a statement that s/he will cover the costs for evaluation of the value in case the enforcement is canceled.

In the resolution for selling, it shall be especially stressed that there is a possibility of determining the final value of the real estate at the first sale (article 153).

The resolution for selling shall be announced on the court bulletin board and in some other common manner.

At least 15 days must pass between the announcement of the resolution for selling on the court bulletin board and the day of the sale.

The resolution for selling is delivered to the parties, to the mortgagees, to the participants in the procedure, to the persons that have recorded or legal right of priority in purchasing, and to the responsible administrative body.

#### **Priority in Purchasing .Article 157**

The person who has legal right of priority in purchasing real the estate subject to enforcement [performed] by sale, shall have priority over the most favorable bidder, provided that immediately after the auction closes s/he states that s/he is purchasing the real estate under the same conditions.

If the real estate is sold by direct agreement, the court shall summon the person who has legal purchase priority right to state whether or not s/he

wants to effect that right. The statement shall be recorded in the court minutes.

### **Manner of Sale**

#### **Article 158**

The sale of a real estate is conducted by oral public auction on the first working day following the expiration of the time period pursuant to article 156 paragraph 5 of this law.

The first sale of real estate shall be held at the court building, unless otherwise determined by the court.

The first sale shall be held in front of a single Judge.

The parties and the mortgagees may, at any time, agree that the sale of the real estate be performed within a specific time period by direct agreement, through a legal entity or a natural person authorized for trading with real estate, or through an officially appointed person or in some other manner.

The contract for sale by direct agreement shall be executed in writing.

The contract shall have effect from the date when the order in which the real estate is awarded to the bidder becomes valid (article 165).

### **Sales Conditions**

#### **Article 159**

The sales conditions, besides other information, shall contain the following:

1. a detailed description of the real estate with and the objects that come with it;
2. a specification of the easement and of the real burdens which shall be transferred to the buyer.
3. the value of the real estate, determined by the court order,
4. the price for which the real estate may be sold,
5. the time period within which the buyer is obligated to deposit the price,
6. manner of sale,
7. the amount of the guarantee.

The time period within which the buyer is obligated to deposit the price may not be longer than 15 days following the date of the sale.

As an exception and only with consent from the creditor, the time limit pertaining to paragraph 2 of this article may be extended up to three months.

### **Depositing Guarantee**

#### **Article 160**

Only persons who have deposited guarantee may participate in the public auction.

For the sale with direct agreement, the buyer shall deposit guarantee with the person with whom s/he executed the contract, before the contract is executed.

Exempt from depositing a guarantee shall be the creditor upon whose proposal the enforcement was allowed and the mortgagee, if their claims reach the amount of the guarantee, and if taking into consideration the priority of each of them has [in settling their claims] and the determined value of the real estate, this amount could be settled from the selling price.

The guarantee shall be one tenth of the determined value of the real estate.

The guarantee shall be returned to the bidders whose offer was not accepted, immediately after the public auction is concluded.

### **If Only One Bidder Is Present at the Sale**

#### **Article 161**

The first sale of the real estate shall be held even if only one bidder is present.

Upon proposal by the party or the mortgagee, the court may determine, depending on the conditions of the case, that the first sale be postponed if only one bidder is present.

### **Who Cannot Be a Buyer**

#### **Article 162**

The debtor, the judge or some other person that officially participates in the sales proceeding, cannot be a buyer, neither in an auction nor in a direct agreement.

### **Selling Price**

#### **Article 163**

At the first sale the real estate may not be sold for a price lower than the determined value.

If the real estate could not have been sold at the first sale, the court shall determine a date for a second sale and the real estate at this second sale may be sold for a price lower than the determined value, but not lower than two thirds of that value.

At least 15 days, but not to exceed 30 days, must pass between the first and the second sale.

The creditors and the mortgagees may agree, in a statement which has to be record with the court that has jurisdiction over that enforcement or with some other court, that the real estate may be sold by auction even for a price lower than the determined value, or lower than two thirds of that value.

The provisions pertaining to paragraphs 2 and 4 of this article shall also apply in those cases when the real estate could not have been sold by direct agreement for the price of the determined value.

### **Real Estate Awarded to a Bidder on the First Sale**

#### **Article 164**

After determining that the requirements for holding the first sale have been satisfied, the court shall announce that the bidding may begin.

The bidding is concluded three minutes after the last most favorable bid [offer] was placed.

After the conclusion of the auction, the court shall determine who of the bidders offered the highest price and shall announce that the real estate is awarded to that bidder.

The court shall also pass a written order that the real estate was awarded to the most favorable buyer, and this order shall be announced on the court bulletin board and delivered to all persons to whom the resolution for sale was delivered, as well as to all participants in the auction within eight days following the date of conclusion of the auction.

### **Real Estate Awarded to a Buyer in Case of a Sale by Direct Agreement**

#### **Article 165**

The court shall pass an order by which the real estate sold by direct agreement is awarded to the buyer, after determining that the conditions for validity of the sale have been satisfied.

The order in which the real estate is awarded to the buyer shall be announced at the court bulletin board and shall be delivered to all persons to whom the resolution for sale was delivered, including the bidder, within the time period provided in article 164 paragraph 4 of this law.

### **Depositing the Price**

#### **Article 166**

The buyer must deposit the price within the time period prescribed by article 159 paragraph 2 of this law.

If the buyer does not deposit the price within the required time period, the court shall, by order, declare the sale void and it shall order a new sale.

The deposited guarantee shall be used to cover the expenses of the new sale and to compensate for the difference if any between the price obtained at the previous and at the new sale.

### **Transfer of the Real Estate to the Buyer**

#### **Article 167**

Once the price is deposited and after the order in which the real estate is awarded to the buyer becomes valid, the court shall, within eight days,

enter an order transferring the real estate to the buyer. Once the order for transferring real estate to the buyer becomes valid the buyer's right to ownership, or the corresponding right in the case of real estate in social ownership, the corresponding right, shall be recorded in the registry in favor of the buyer.

The court's order for transferring the real estate shall be delivered to all persons to whom the resolution for sale was delivered.

The real estate may be transferred to the buyer prior to the order becoming valid.

### **Protection of the Buyer's Rights**

#### **Article 168**

Once the order for transferring the real estate to the buyer becomes valid, abrogation or amendment of the enforcement order shall have no effect on the rights acquired by the buyer in accordance with article 167 of this law.

### **Cancellation of the Enforcement**

#### **Article 169**

If the real estate was not sold at the second sale, the court shall, upon the creditor's proposal, award the real estate to the creditor for the sale price obtained at the second sale, but the creditor must deposit with the court the positive difference in the price within a time period determined by the court.

If the creditor does not propose that the real estate be awarded to him/her, the court shall order another auction only upon the creditor's proposal.

The creditor cannot present a proposal for a new sale prior to the expiration of three (3) months following the date of the second sale, nor after the expiration of one year from that date.

The court shall cancel the enforcement if either the creditor fails to submit a proposal within the time period stated in paragraph 3 of this article, or if the real estate could not be sold at the first sale in the extended procedure for at least two thirds of the determined value.

The enforcement [performed] by direct sales agreement shall be canceled if the real estate could not be sold within the time period determined in the agreement between the parties and the mortgagees (article 158 paragraph 4).

### **5. Settling Creditors' Claims**

#### **Time for Settling Creditor's Claims**

##### **Article 170**

The court shall initiate the settling of the creditor's claims once the order for transferring the real estate to the buyer becomes valid.

#### **Whose Claims May Be Settled**

### **Article 171**

The claims of the following shall be settled from the proceeds of the sale: (i) creditors upon whose proposal the enforcement was permitted, (ii) mortgagees, (iii) persons with a right to compensation for personal [private] easements and real burdens who have not registered their claims, (iv) agencies responsible for claiming expenses, and (v) the persons with claims listed in article 172 paragraph 1 items 2 and 3 of this law.

### **Priority of Settling**

#### **Article 172**

Primarily, and in this order, the following shall be settled with proceeds of the sale:

1. expenses of the enforcement procedure;
2. debts that matured in the course of the previous year and that burden the sold real estate.

The claims pertaining to paragraph 1 item 2 of this article shall be settled if they are registered not later than the beginning of the hearing for the division and if they are proofed by an executive title.

The time period determined in paragraph 1 item 2 of this article shall begin on the date in which the order for transferring the real estate to the buyer is entered by the court..

### **Priority in Settling Other Claims**

#### **Article 173**

Once the claims pertaining to article 172 of this law have been settled, the following claims shall be settled: (i) claims secured by a right arising from a mortgage, (ii) claims of creditors upon whose proposal the enforcement was permitted, and (iii) compensation for personal [private] easements and real burdens, which terminate with the sale.

The creditors' claims pertaining to paragraph 1 of this article shall be settled according to the order in which the creditors acquired the right arising from the mortgage and the right to settlement after having proposed the enforcement, or according to the order in which personal [private] easement and the real burdens have been recorded in the registry.

Expenses and interest specified in the executive title for the last three years prior to entry of the order for transferring the real estate to the buyer shall be settled according to the order in which the main claim is settled.

After settling the claims pertaining to paragraph 1 of this article, the claims listed in article 172 paragraph 1 item 2 of this law shall be settled, for the period during which they are not settled according to those provisions.

### **Value of Compensation for Personal [Private] Easement and Real Burdens**

#### **Article 174**

If the holder of personal/private easements as real burdens that terminate with the sale and the creditors cannot mutually agree to the value of compensation for easements or real burdens, the court shall determine the value of the compensation taking in particular consideration the duration of the easement, or the burden, their value and the age of the holders of such rights.

The holder of the right of personal/private easements or real burdens and the buyer may agree that the easements or the real burdens be transferred to the buyer and that the value of compensation, determined according to paragraph 1 of this article, be subtracted from the purchase price.

### **Proportional Settlement**

#### **Article 175**

Multiple claims having the same order of settlement shall be settled in proportion to the amounts, if the sale proceeds are insufficient to achieve full settlement.

### **Disputing a Claim**

#### **Article 176**

The creditor or other persons entitled to proceeds of the sale may, if this influences his/her settlement, object to another person's claim, its amount and the order in which s/he has the right to settle his/her claims.

Objections are penalized up to the time the hearing for division begins.

### **Referral to a Lawsuit**

#### **Article 177**

The court shall advise the person who objects to the existence of [someone else's] claim to initiate a lawsuit within a specified time, if the decision depends on the disputed facts; otherwise the court shall decide on the redundant issue.

The court shall stay the entry of an order for the settlement of a person whose claim is challenged until the lawsuit is concluded.

The equivalent amount to the challenged claim shall be deposited with the court.

If a lawsuit is not initiated within the specified time, the court shall deem the objection void.

Paragraph 4 of this article shall not seclude the person that objected to the existence of the claim from initiating a lawsuit against the person whose claim s/he objected to, even after the procedure is concluded.

## **6. Special Provisions for the Manner of Settlement of Some Claims**

### **Matured Claim**

#### **Article 178**

A secured creditor's claim, which has not matured until the date on which the order for settlement was entered, and for which no agreement regarding interest has been reached, shall be paid after offsetting the amount that corresponds to the legal interest, beginning on the date the order for settlement was entered and the date on which the claim matured.

A matured claim for which an agreement regarding interest has been reached, shall be paid together with the amount of the agreed interest, calculated from the date the order for settlement was entered.

### **Non-matured Claim from Periodical Allowances**

#### **Article 179**

Claims for secured periodical allowances which mature after the date on which the order for settlement is entered based on either legal support; on compensation for damages that result from health problems; on decrease or loss of working capacity; or on compensation for loss of support because of death of the provider of that support, shall be settled upon the creditor's request.

These claims shall be calculated in the same manner in which the compensation for personal [private] easements or real burdens are calculated.

### **Claim Subject to a Condition**

#### **Article 180**

The amount of an unsecured claim that is subject to a particular condition, shall be deposited with the court and shall be paid upon the occurrence of condition subsequent, or when it becomes apparent that the rescinding condition will not occur.

If the condition subsequent does not occur, or if the rescinding condition occurs, the amount that has been deposited with the court shall be used to satisfy outstanding creditor's claims. If there are no such creditors or the whole amount has not been used for creditors' settlement, this amount, or the remainder, shall be handed to the debtor. The debtor shall receive in return all excess amounts after all creditor claims have been satisfied.

### **Recording of a Secured Right and a Lawsuit**

#### **Article 181**

Secured rights which have been recorded in the registry and for which it can be proven that a procedure is in progress for its justification, or that the time period for initiating such a procedure has not yet expired, the claim recorded in the registry shall be settled in a manner in which a claim subject to a condition subsequent is settled.

Where a record of an initiated lawsuit for erasing the security right or another initiated lawsuit has been entered in addition to the claim [already] recorded in the registry, then that claim shall be settled in a manner in which a claim subject to a rescinding condition is settled.

**7. Hearing for Division, Order for Settlement and Erasing the Right and Burden**  
**Hearing for Division**  
**Article 182**

The court shall hold a hearing to divide the proceeds of the sale within eight (8) days of the order that transfers the real estate to the buyer becoming valid.

In addition to the parties, persons according to relevant documents and the data from the registry [having a right to the settlement of their claims from the amount received by the sale], shall also be invited to the hearing.

The invitation shall include a warning to these persons that the claims of the creditors who fail to attend the hearing shall be taken into consideration in accordance with the information contained in the registry and documents, and that objection to the existence of such a claim may be made including the amount and the order in which settlement is made not later than the beginning of the hearing.

The settlement of creditors' claims and other persons who present a request for settlement of their claims shall be discussed at the hearing.

**Order for Settlement**  
**Article 183**

The court shall hold a hearing to determine the order in which claims of creditors and other persons who have the right to settlement are settled. The court shall submit it to the creditors and other persons that have the right to settlement, within eight days of the entry of the order. [taking into consideration the state shown in the documents and the registry, as well as the state established at the hearing.]

The order pertaining to paragraph 1 of this article, shall consider only claims for which the enforcement order became valid prior to the date on which the hearing for division was held. Claims for which the enforcement order became valid after the hearing for division was held shall be settled after the enforcement order becomes valid from remaining proceeds of the sale. If any, and the remains shall be returned to the creditor.

The appeal against the order for settlement shall stay the execution of the order, if the order with which the appeal is accepted could have an influence on the settlement.

**Erasing Rights and Burdens**

#### **Article 184**

The court shall, after the order for settlement becomes valid, order that the rights and burdens recorded in the registry be erased, except those that follow the real estate despite the transfer to the buyer, and those which the buyer agreed to assume [by transfer].

### **8. Termination of the Debtor's Right Over a Sold Apartment**

#### **Article 187**

Debtors who reside in a family house or apartment, which has been sold shall not retain the right to reside there further and shall vacate the premises within sixty (60) days.

If the debtor fails to vacate within sixty (60) days of the sale of the premises, the court shall, upon the buyer's request enforce vacancy of the premisses in accordance with articles 213 through 216 of this law.

### **9. Application of the Provisions of This Title to a Territory Where No**

#### **Cadaster**

#### **Article 186**

Where a cadaster has not been established according to the Law on Land Survey, the following Cadaster and Registration of Real Property Rights shall apply: (i) the laws for deeds and intabulation valid on that territory for documents that are submitted in addition to the proposal for enforcement, to prove the right of ownership over the real estate that is subject to enforcement, (ii) the laws for the registry of deeds and the registries of intabulation in which the order for enforcement against the real estate will be recorded.

If it is not possible for any reason to provide a proof of ownership in conformity with the laws rules valid for that territory, the creditor shall specify in the proposal for enforcement the place where the real estate is located, its description, the borders and its size.

In such cases, the court shall hold a hearing to inventory the real estate against which enforcement was proposed, and the creditor, the debtor, his/her spouse and the persons whose property borders on the said real estate shall be invited to the hearing

The minutes of the inventory shall be deemed to be a record of the enforcement and it shall be announced on the court bulletin board.

The provisions of this article shall apply without regard to whether the real estate has been recorded in the registry.

The provisions of this article shall also apply when the real estate was recorded under the debtor's name in a cadaster that has not been established according to the Law on Land Survey Cadaster and Registration of Real Property Rights, provided the holder of the deed, or his heirs confirm, with a statement verified by the responsible body, that the debtor is the owner of the real estate which is subject to the enforcement.

## **2.13 Court Penalties**

### **Article 187**

Any request from the creditor that the court bind the debtor with a final judgement to perform a non-monetary obligation for payment of court penalties as provided by the Law on Obligations shall be decided during the enforcement procedure.

The court shall pass an enforcement order upon the creditor's request based on a valid order for payment of court penalties.

Payment of court penalties may be demanded until the true proposal for the execution of the court judgement [is submitted].

The creditor is not entitled to the right to court penalties from the date of submitting the enforcement proposal.

## **2.14. SPECIAL PROVISIONS FOR ENFORCEMENT AGAINST PROPERTY OF LEGAL ENTITIES TO COLLECT MONETARY CLAIMS**

### **1. Exemption and Limitation**

#### **Objects not in the Exchange of Goods and Services and Natural Resources**

##### **Article 188**

Objects that are not in the exchange of goods and services, as well as mineral resources and other natural resources, cannot be the subject of enforcement procedures.

#### **Means Necessary for National Defense, State and Public Security and for Execution of Sanctions**

##### **Article 189**

Buildings, arms and equipment for national defense, state and public security and for execution of sanctions cannot be the subject of enforcement procedure.

### **2. Enforcement Against Money on Debtor's Account**

#### **Local Jurisdiction Article 190**

Decision on the enforcement proposal and realization of the enforcement against money maintained on the debtor's account at the Payment Bureau, shall be local competence of the court that has jurisdiction over the territory of the branch of the Payment Bureau, in which the debtor's account is maintained, is located.

#### **Range of Enforcement On Legal Entity**

### **Article 191**

The enforcement for the realization of a monetary claim on legal entities may be performed against all the money in their accounts at the Payment Bureau, including the denar equivalent of the money in foreign currency accounts with the bank.

## **Range of Enforcement Against Money of The Republic of Macedonia and Its Bodies and Local Government**

### **Article 192**

Enforcement against money in the accounts of the Republic of Macedonia and its units of local self-governance at the Payment Bureau, as well as against the denar equivalent of the money in its foreign currency accounts with the bank, cannot be permitted if such money is necessary to perform the basic tasks of the government or its units of local self-governance.

The provisions pertaining to paragraph 1 of this article shall also apply on the bodies of the Republic of Macedonia.

Where necessary, before pronouncing the order regarding the proposal for enforcement the court shall interrogate the parties on the circumstances on which the application of paragraphs 1 and 2 of this article depends.

## **Order of Collection**

### **Article 193**

The Payment Bureau shall conduct collections according to order in which the enforcement orders are received, unless otherwise provided by law.

The Payment Bureau maintains records of the order in which the enforcement orders are received, according to the date and the hour, and upon a creditor's request, will issue a certificate of the order in which his/her claim was received.

The Payment Bureau cannot execute a payment order from the debtor prior to the collection of the claim specified in the enforcement order, unless otherwise provided by Law.

Documents for which the law prescribes so, shall deemed be equal to the enforcement order.

If the enforcement is postponed or stayed upon debtor's proposal then an appropriate amount of money shall be allocated for the purpose of keeping the order of collection of the claims.

## **Specification of Accounts**

### **Article 194**

The creditor shall specify in the enforcement proposal the branch of the Payment Bureau and the account numbers in which his/her and the debtor's

money is maintained, as well as his/her account number and the debtor's account number.

### **Enforcement Order**

#### **Article 195**

The enforcement order against money maintained on the debtor's account at the Payment Bureau, shall order the Bureau to transfer from the debtor's account to the creditor's account the amount of money for which the enforcement was permitted

The transfer pursuant to paragraph 1 of this article may be performed even before the enforcement order becomes valid, except when the order was based on an authentic document.

Claims in which collection through a Payment Bureau account was not authorized shall be collected from the creditor's bank accounts or in cash, once the enforcement order becomes valid.

### **Periodical Expenses**

#### **Article 196**

If the enforcement order orders the debtor to pay periodical damages which mature in certain time intervals (monetary support for loss or reduction of living and working capacity, or for death of a support provider, etc.), the Payment Bureau shall automatically (i.e. without a renewed request) pay the expenses once they have matured.

The order for collection of all future installments pursuant to paragraph 1 of this article shall be calculated according to the *time/date* of receipt of the ruling enforcement order.

The Payment Bureau maintains special records on the enforcement orders for collection of future or periodical expenses.

### **Staying the Enforcement**

#### **Article 197**

The Payment Bureau branch where orders for enforcement against the debtor's account was delivered shall stay the enforcement upon creditors submission of proof before a court trial instead to abandon the enforcement procedure

In case of a stay pursuant to paragraph 1 of this article, no money shall be allocated.

### **No Funds in the Debtor's Account**

#### **Article 198**

If at Payment Bureau the debtor's account contains no funds the court shall not stay the enforcement. The Payment Bureau shall maintain the order in its records in order to perform the transfer at such time as appears in funds on the account.

## **Enforcement Against a Joint Debtor**

### **Article 199**

The court shall enter a single enforcement order against several debtors that are jointly liable according to the enforcement document.

The creditor may specify the order in the enforcement proposal in which the collection will be performed against the debtors. If such order is not designated, collection shall proceed according to the order in which the debtors are listed in the enforcement proposal.

If the accounts of joint debtors are maintained at different branches of the Payment Bureau, the court shall deliver the enforcement order to that branch of the Payment Bureau where the debtor, who was designated by the creditor pursuant to Paragraph two of this article or the debtor, who is otherwise listed first in the enforcement proposal, maintain his account.

If the debtor's transfer account contains no funds the Payment Bureau branch shall deliver upon creditor's request, the enforcement order to that unit of the Payment Bureau that maintains the transfer account of the other joint debtors.

## **Order of Settlement from Certain Accounts of a Legal Entity**

### **Article 200**

The claim against a legal entity shall be primarily settled from the funds on its transfer account.

If there are no funds on the transfer account, the Payment Bureau shall transfer an appropriate amount of funds to the debtor's transfer account from his/her other accounts according to the order provided by law.

The legal entity may also, in advance, determine a different order of the funds.

## **Transfer of Funds from a Foreign Currency Account**

### **Article 201**

The transfer of funds, calculated in denars, from the debtor's foreign currency account in a bank, to the transfer account shall be carried out by the bank that maintains the foreign currency account, upon the Payment Bureau's request.

The bank shall execute the Payment Bureau's request on the same day in which it is received. If there are no funds in the foreign currency account, the bank shall act upon the request when there are such funds in the account, except if the Payment Bureau is notified that the transfer of funds is no longer requested.

The bank shall not perform the debtor's orders concerning disposition of funds in his/her foreign currency account until it executes the Payment Bureau's request, or until the Payment Bureau receives notification that the transfer of funds is no longer requested.

### **3. Enforcement Against a Monetary Claim by the Debtor**

#### **Article 202**

The provisions of this law regarding the enforcement against a monetary claim shall also apply to the enforcement against the debtor's monetary claim over funds in the account of his/her debtor at the Payment Bureau.

If the debtor's debtor agrees to fulfil his/her obligation, s/he shall order the Payment Bureau to transfer the amount for which enforcement was permitted to the creditor's account.

The provisions of article 195 paragraph 3 of this law shall apply to cases falling within paragraphs 1 and 2 of this article.

### **Enforcement Against a Claim on a Foreign Currency Account for the Collection of a Claim in Foreign Currency**

#### **Article 203**

If the obligation is denominated in foreign currency according to the executive title, the court shall permit enforcement, upon the creditor's request against a claim that the debtor has in the same foreign currency against the bank in a foreign currency account.

Payment of the claim in foreign currency shall be made by the bank in accordance with foreign currency regulations.

Claims in foreign currency against the Republic of Macedonia and its bodies, as well as of the units of local self-governance, cannot be enforced if the funds are required to perform basic tasks.

In such case, the court shall interrogate the parties before pronouncing the order regarding the enforcement proposal.

### **Expenses Exempted from Enforcement**

#### **Article 204**

Claims of the Republic of Macedonia and of the units of local self-governance, as well as the funds based on benefits, taxes and other expenses cannot be the subject of enforcement.

### **4. Enforcement Against Movable Property and Rights of the Republic of Macedonia and its Bodies, Units of Local Governance and Public Utilities**

**Article 205** Settlement of monetary claims against properties and rights of the Republic of Macedonia and its bodies, units of local government and public utilities shall not be permitted if needed to perform their respective activities or tasks.

If in the course of the enforcement the parties cannot agree on the issue of necessary properties and rights or if needed because of other reasons, a court shall resolve the issue of the properties and rights necessary for the performance of the debtor's activities.

### **3. ENFORCEMENT FOR COLLECTION OF A MONETARY CLAIM**

#### **15. HANDING AND DELIVERY OF MOVABLE PROPERTY**

##### **1. Local Jurisdiction**

###### **Article 206**

Courts having local jurisdiction over the territory in which movable property is located shall decide on an enforcement proposals for transferring one or more specific objects of property, delivering a specific quantity of fungible objects of property, and for realization on enforcement.

##### **2. Handing Specific Movable Property**

###### **Where the Movable Property Is in Possession of the Debtor or a Third Party**

###### **Article 207**

An enforcement for handing one or more specific objects of property that are in possession of the debtor shall be realized by an officially appointed person by taking away the movable property from the debtor and handing it, with a document of confirmation, to the creditor.

Enforcement shall, in conformity with the provision pertaining to paragraph 1 of this Article, also be realized when the movable property is with a third party that wants to hand it to the officially appointed person.

Where a third party does not want to hand the movable property, a creditor may propose that a court transfer to him/her the claim to be handed the property that the debtor claims from the third person.

Provisions related to enforcement over a claim to hand or deliver movable property shall also apply to the procedure based on a proposal as provided in paragraph 3 of this Article.

###### **Where the Movable Property not in Possession of the Debtor nor a Third Party**

###### **Article 208**

Where the movable property is not in the debtor's possession nor a third party's, the court shall, upon proposal from the creditor, assess the value of the movable property and determine in an order that the debtor, to pay the creditor an amount equaling that value within a specified period of time.

The creditor may file a proposal pursuant to paragraph 1 of this Article within eight days of receiving notification that the movable property has not been found.

On the basis of such a court order pursuant to paragraph 1 of this article the creditor may propose enforcement against the debtor.

The court shall stop the enforcement if the creditor fails to present a proposal that the debtor pay the value of the movable property, within the specified time period.

### **3. Delivery of Fungible Objects of Property that is in Possession of the Debtor or a Third Party**

#### **Article 209**

Where the executive title specifies delivery of a specific quantity of fungible objects of property that are in possession of the debtor or a third party, the enforcement shall be realized in the manner prescribed for handing specific objects of property.

### **Where the Movable Property Is Not in Possession of the Debtor or a Third Party**

#### **Article 210**

Where the movable property is not in the possession of the debtor nor a third party, the creditor may propose that enforcement be realized by a court authorizing him/her to procure the objects of property elsewhere, at the expense of the debtor, and within a specified time period.

The court shall, upon the creditor's proposal order that the debtor deposit in the court in advance the amount necessary to procure the movable property.

On basis of such an order, the creditor may propose enforcement against the debtor.

A proposal to procure the movable property elsewhere may be presented by the creditor within eight days of the date when the court notified him/her that the enforcement could not be realized.

If the creditor fails within that time period to present a proposal for procurement of the movable property elsewhere, the court shall stop the enforcement, except if the creditor files a timely proposal that the debtor pay the value of the property that s/he was obligated to deliver.

### **When the Movable Property that cannot be Procured Elsewhere**

#### **Article 211**

If the creditor cannot procure the objects elsewhere within the time period specified by the court, or if the creditor demonstrates satisfactorily that the movable property cannot be procured elsewhere, the court shall, upon the creditor's proposal assess the value of the movable property and order the

debtor to pay the creditor an amount equaling that value within a specified period of time.

On basis of a court order, pursuant to Paragraph 1 of this article, the creditor may propose enforcement against the debtor.

A proposal that the debtor pay to the creditor the value of the movable property may be presented by the creditor within eight days of the expiration date of the time period for procurement of the objects elsewhere, or within the time period ordered by a court where the creditor has demonstrated satisfactorily that the movable property cannot be procured elsewhere.

If the creditor does not present a proposal within the specified time period, the court shall stop or suspend the enforcement.

#### **4. Compensation for Damages**

##### **Article 212**

The provisions from this law pertaining to procurement of fungible objects of property elsewhere and payment of the value of specific and fungible objects of property shall not infringe upon the right of the creditor to file a lawsuit seeking compensatory damages for the debtor's failure to deliver the movable property.

## **2.16. VACATING AND DELIVERING REAL ESTATE**

### **Local Jurisdiction**

#### **Article 213**

A decision on an enforcement proposal for vacating and delivering real estate and for realization on enforcement shall be ruled upon by the court having local jurisdiction over the territory in which the movable property is located.

### **Manner of Realization of Enforcement**

#### **Article 214**

An enforcement for vacating and delivering real estate pursuant to Article 213 of this Law shall be realized by an official who shall remove movable property and any persons from the real estate and deliver possession of the real estate to the creditor.

Vacating and delivering of the real estate may commence upon expiration of eight days following the date on which the enforcement order was delivered to the debtor.

## **Removal of Movable Property**

### **Article 215**

Movable property which is subject of the enforcement order shall be delivered to the debtor. If however, the debtor is not present, it shall be delivered to an adult member of his/her household or to his/her authorized representative.

If none of the persons to whom the movable property can be handed are present during enforcement activity or where these persons refuse to take the property, the movable property shall be delivered to another person for safe-keeping at the expense of the debtor.

The court shall notify the debtor of such delivery and the expenses for safe-keeping, and allow the debtor a reasonable period of time in which to request that the movable property be delivered to him/her after paying the expenses for the safe-keeping.

In addition to such notification, the court shall warn the debtor that after the expiration of the specified time period that the movable property shall be sold and the expenses for safe-keeping and for selling the movable property shall be paid from the sale price.

## **Sale of Movable Property**

### **Article 216**

A court shall *ex officio* order the sale of the movable property at the debtor's expense if the debtor does not request delivery of the movable property within the permitted time period and does not cover the expenses for safe-keeping.

Any share of the price obtained by sale that remains after the expenses for safe-keeping and the sale of the movable property have been paid shall be deposited with a court in favor of the debtor.

The sale of movable property shall be conducted in conformity with the provisions of this Law pertaining to enforcement over movable property.

## **2.17.OBLIGATION FOR ACTION, ENDURING AND NON-ACTION**

### **Local Jurisdiction**

#### **Article 217**

Where an executive title obligates a debtor to undertake some act or endure or refrain from undertaking a particular act, a decision on the enforcement proposal and for realization of the enforcement shall be ruled by the court that has local jurisdiction over the territory in which the debtor, in conformity with the executive title, is obliged to perform the obligation.

### **Action Performable by a Third Party**

### **Article 218**

In conformity with the executive title that obligates the debtor to undertake an act that may also be performed by another person, enforcement shall be realized by a court authorizing the creditor to entrust the performance of the act to another person, at the expense of the debtor, or to perform the act by him/herself.

A creditor may propose in an enforcement proposal that the court obliges the debtor by court order to deposit in advance the amount necessary to cover the expenses for the enforcement of the action by another person, or by the creditor.

A final court order stating the extent of the expenses pertaining to paragraph 2 of this article shall be pronounced by a court upon proposal of the creditor or debtor.

On basis of a court order pronounced pursuant to paragraph 2 of this article, enforcement may be proposed before the order becomes valid. Enforcement, however, may be proposed only after the court order becomes valid if entered pursuant to paragraph 3 of this article

### **Action Performable Only by the Debtor**

#### **Article 219**

Where the executive title obligates the debtor to perform a particular act that no other person may perform in his/her stead, the court shall in the enforcement order permit the debtor a reasonable time in which to perform the obligation.

The enforcement order shall also provide for a fine, up to 4.500.00 denar for a physical person and up to 15.000.00 denar for a legal entity, in the event the debtor fails to perform the obligation within the prescribed time period.

The court shall *ex officio* enforce the order pronouncing the fine in the event the debtor fails to perform the obligation within the prescribed time period.

In such a case, the court shall simultaneously enter a new order with a new time limit for the debtor to perform the obligation and a greater fine than that imposed in the previous order.

The court shall proceed against debtors who fail to perform their obligations as provided in paragraphs 2, 3 and 4 of this article until the sum of fines per individual court order reaches ten times the amount of the first fine.

The court shall consider the significance of the action that the debtor was obligated to perform, as well as other circumstances of the case in determining the amount of the fine to be within the prescribed value.

### **Enduring and Non-Performance**

#### **Article 220**

As provided for in article 219, paragraphs 1 through 4 and paragraph 6 of this Law, enforcement shall also be implemented if the debtor acts

contrary to the obligation to endure the undertaking of a particular action or fails to perform a particular act. Upon creditor's proposal, the court shall order the debtor to deposit a guaranty for damages provided the creditor can show that s/he would suffer damages in the event that the debtor continues to act contrary to his/her obligation.

The duration of the guaranty shall be determined by the court after considering the circumstances of the case.

Enforcement shall be implemented pursuant to the creditor's proposal based on a court order for depositing a guaranty.

### **Restoring Prior State**

#### **Article 221**

If the debtor's failure to fulfill his/her obligation under an executive title infringes the rights of the creditor the court shall, upon the creditor's proposal authorize the creditor to restore the prior state at the expense and risk of the debtor by him/herself or, if necessary, with the assistance of an official.

The provisions of this law pertaining to performance of an action by a person other than the debtor apply to the depositing of the amount necessary to cover the expenses of restoring the prior state and for determining the final amount of these expenses.

### **Repeated Disturbance of Possession**

#### **Article 222**

If the enforcement has been implemented on basis of an executive title, passed in a proceeding based on a complaint for disturbance of possession, or if the debtor has performed his/her obligation voluntarily, and then has again disturbed the possession that does not differ from the previous one, then upon the creditor's proposal and based on the same executive title, the court shall enter a new enforcement order allowing the movable property in the debtor's possession to be returned, (i.e. an enforcement order with which penalties are imposed for non-performance of an act which can only be performed by the debtor.

The enforcement proposal, described in paragraph 1 of this article may be presented by the creditor within 30 days following the date when s/he learned of the repeated disturbance of possession, but no later than one year after the repeated disturbance.

## **2.18. RETURNING AN EMPLOYEE TO HIS/HER EMPLOYMENT**

### **Local Jurisdiction**

#### **Article 223**

On an enforcement proposal and for realization of the enforcement on the basis of an executive title which obliges a legal entity to return an employee to his/her employment or to reassign him/her to their previous

assignment, shall decide the court that has local jurisdiction over the territory in which the head office of that legal entity is located.

### **Time Limit for Submission of an Enforcement Proposal**

#### **Article 224**

The enforcement proposal pursuant to article 223 of this Law may be submitted within six months of the date in which the employee obtained the right to submit the proposal.

### **Manner of Implementing the Enforcement**

#### **Article 225**

The enforcement, based on an executive title which obligates the legal entity to reinstate an employee to his/her employment or to reassign the employee to his/her previous assignment, shall be implemented by assessing a fine against the legal entity.

The fine shall be pronounced in conformity with the provisions of this Law pertaining to performance of an action that may be performed only by the debtor.

### **Compensation of Last Salary for Workers Returning to a Legal Entity**

#### **Article 226**

An employee proposing to be reinstated by the legal entity may also propose that the court order the legal entity to pay to the employee, as salary the monthly amounts due for the period between the effective date of the judgement and his/her return to work.

The compensation proposal may be joined to the enforcement proposal or it may be submitted after the enforcement procedure is concluded.

The court order which adopts the proposal for compensation has the effect of an enforcement order.

The legal entity may propose that the court abrogate this order, if the circumstances upon which the order was based have changed.

The compensation shall be equivalent to the amount that the employee would have earned had he worked.

The provisions of this article do not affect the right of the employee to assert a claim for compensation of the monthly salaries in a proceeding before a competent court.

If the court has partially accepted the request for payment of a compensation for salary, it shall refer the employee to proceed with the remainder in a proceeding before the competent court.

### **Application of the Provisions Pertaining to this Chapter**

#### **Article 227**

The provisions pertaining to this Chapter shall also apply to returning to employment an employee employed with other person.

## **2.19. REGISTRATION OF RIGHTS IN A PUBLIC REGISTRY**

### **Local Jurisdiction**

#### **Article 228**

Jurisdiction to rule on enforcement proposals for the creation of liens on real property by recordation in a registry or for transfer, limitation or termination of such liens shall lie with the court that administers the registry in which the entry is to be made, or any other court prescribed by law.

The court that administers the public registry for such real estate shall be competent to implement the enforcement.

### **Manner of Implementing the Enforcement**

#### **Article 229**

Enforcement pursuant to article 228 of this Law shall be implemented by the court subject to appropriate registration in the public registry.

### **Registration of a Property Right When the Debtor is Not Registered as the Owner**

#### **Article 230**

If the debtor is not registered as the owner of real estate, registration of the creditor's property right over that real estate may be made if, the creditor submits evidence in the enforcement proposal that the legal predecessor of the debtor is the person registered as owner.

### **Registration of Another Right When the Debtor is Not Registered as Owner**

#### **Article 231**

If (i) the creditor is authorized by executive title to seek the registration of a security interest or some other right over the real estate held by the debtor except the property right and (ii) the debtor is not registered as owner of that real estate, then the creditor may request in the enforcement proposal that the property right be registered to the debtor. Registration of the creditor's right, in the subject real estate may then be made upon the creditor's submission of sufficient evidence that the debtor has obtained property rights over the real estate.

## **2.20. DIVISION OF MOVABLE PROPERTY**

### **Local Jurisdiction**

#### **Article 232**

The court having local jurisdiction over the territory in which the property is located shall decide on enforcement proposals, including the

division of joint real estate, inheritance and other joint movable property and implementation of enforcements.

### **Physical Division**

#### **Article 233**

The court shall allow a physical division of jointly held property if division is provided for in the executive title.

Certain activities for the implementation of the physical division, shall be undertaken by the judge or by an officially appointed person subject to the circumstances of the case.

The court shall summon the participants to be present at the implementation of the division.

### **Division by Sale**

#### **Article 234**

If the executive title provided that joint property is to be sold for purposes of division the sale shall be conducted in the manner provided by this law for enforcement on movable property and real estate, unless the parties agreed otherwise on certain issues.

### **Where the Manner of Division is Determined by a Court Order**

#### **Article 235**

The court before which the enforcement procedure is proceeding shall decide, in conformity with the rules of property law, whether the division shall be performed physically or by a sale, unless the executive title provides otherwise regarding the manner of division, and the parties are unable to reach an agreement as to the manner.

Division shall be performed by a sale if, during the enforcement procedure, it is decided that the physical division provided for in the executive title is not feasible.

### **Expenses of the Procedure**

#### **Article 236**

Expenses related to the implementation of enforcement shall, in conformity with the provisions this Chapter, be borne by all owners or holders of the right to disposition in proportion to the value of their shares in the joint property.

Owners or holders of the right to disposition who caused extraordinary expenses shall be obligated to reimburse the owners or holders of the right to disposition for such expenses to the extent they were incurred

## **2.21. DEPOSITION OF A STATEMENT OF ASSENT**

### **Article 237**

The obligation for deposition of a statement of assent, included in a decision with the character of an executive title, shall be deemed performed by such decision becoming valid.

The obligation for deposition of a statement of assent, included in a settlement document (article 18), shall be deemed performed on the date it becomes due.

If the performance of the obligation for deposition of a statement of assent is dependent on the performance of another obligation by the creditor, the debtor shall be deemed to have deposited the statement once the creditor performs his/her obligation.

### Part Three

## **SECURITY PROCEDURE**

### **Application of Provisions Pertaining to the Enforcement Procedure**

#### **Article 238**

The provisions of this Law pertaining to the procedures for enforcement shall also apply to the security procedure, unless otherwise provided in the provisions of this section of the Law.

### **Security Instruments**

#### **Article 239**

Security instruments may only be mortgage on real estate, creation of security interest over movable property or real estate on basis of contract between the parties, preceding measures and interim measures.

### **Impermissible Security**

#### **Article 240**

Security shall not be allowed for property or rights that cannot be the subject of enforcement according to this or some other law.

### **Petition against an Order for Security**

#### **Article 241**

A debtor may petition for a decision that provides for security if the debtor was not given opportunity to express his/her opinion on the proposal for passing a security order.

In the petition pursuant paragraph 1 of this article the debtor may only plead non existence of the conditions necessary for passing a security order (articles 243, 254,255,266 and 268).

## **2.22. SECURITY INTEREST IN REAL ESTATE**

### **Local Jurisdiction**

#### **Article 242**

Jurisdiction for deciding on a proposal to secure a monetary claim by recording and thereby creating a lien on real estate and for realization of such security lies with the court having the authority to administer the cadaster in which the entry is to be made pursuant to the Law on Cadastre, Survey and Registration of Rights over Real Estate.

### **Conditions for Establishing A Security Interest**

#### **Article 243**

A creditor shall on the basis of an executive title pronounced for a monetary claim be entitled to request that the claim be secured by creating a security interest in the debtor's real estate.

### **Manner of Establishing A Security Interest in Real Estate that is Recorded in A Registry**

#### **Article 244**

A security interest in real estate registered in the cadastre shall be established by the act of registration.

The enforceability of the claim for which securitization has been allowed shall be noted upon registration of the security interest referred to in paragraph 1 of this article in the cadastre pursuant to Article 243 of this law.

If the creditor established a security interest in the same real estate [claim] pursuant to an agreement made before the claim became executable or the security interest was registered before the claim became executable, the court shall, upon the creditor's proposal, allow the enforceability of the claim to be recorded in the cadastre referred to in paragraph 1 of this Article.

### **Manner of Establishing A Security Interest in Real Estate on Territory for which no Public Registry is Maintained**

#### **Article 245**

A security interest in real estate located on territory for which a cadastre referred to in Article 242 is not maintained shall be established by registration in the intabulation book.

### **Effect of Registration and of Record on Enforceability**

#### **Article 246**

The facts of registration of a security interest and the record concerning the enforceability of the claim shall make it possible to implement enforcement procedures against a third party who subsequently acquires the real estate.

## **2.23. ESTABLISHING A SECURITY INTEREST IN MOVABLE PROPERTY AND REAL ESTATE ON THE BASIS OF A CONTRACT BETWEEN THE PARTIES**

### **Local Jurisdiction**

#### **Article 247**

The court having local jurisdiction over territory covered by the public registry in which entry is to be made (articles 242 and 248) shall decide on proposals for securing a monetary claim by establishing a security interest over real estate on the basis of a contract between the parties.

If a security interest in real estate is created for the purpose of securing a monetary claim and is to be recorded in a registry which is within the jurisdiction of several courts, the court in which the parties have filed the proposa shall have jurisdiction.

The court having local jurisdiction over territory covered by the public registry in which the entry is to be made shall have jurisdiction over a proposal for securing a monetary claim by establishing a security interest over movable property on the basis of a contract between the parties

The agency or court that administers the public registry for such real estate shall be competent to realize the security pursuant to paragraphs 1 and 2 of this Article.

In cases pertaining to paragraph 2 of this Article the court in which the settlement has been made as *ex officio* shall submit the security order to the court having local jurisdiction over the territory in which the registry is located for the purpose of recoding the security interest on the same date in which the order was entered.

### **Proposal for Security**

#### **Article 248**

The creditor and the debtor may agree to request that the court allow and effect registration of a mortgage over the debtor's real estate or allow and effect an inventory of the debtor's movable property for the purpose of securing the creditor's monetary claim by providing a security interest in the movable property or real estate of the debtor.

Proof of ownership of the real estate in conformity with the provisions of Article 142 of this law shall be attached to the security proposed for mortgage on real property and, if proof in conformity with these provisions is not provided, ownership may be proven only by a deed.

### **Hearing for Proposal and Agreement between the Parties**

### **Article 249**

On the parties' proposal, the court shall schedule a hearing to confirm in the court minutes the stipulations of the parties to the existence of the claim; the time of its maturity; their consent; and that the monetary claims secured by the recordation of the mortgage on the debtor's real estate or the inventory of the pledge on the debtor's movable property.

The signed minutes of the parties' agreement referred to in paragraph 1 of this article has effect of a court settlement.

### **Allowing and Realizing Security**

#### **Article 250**

Based on an agreement referred to in Article 249 of this Law, the court shall, by order, allow the registration and shall undertake the necessary steps to effect the registration of a mortgage over the debtor's real estate, or it shall allow and realize an inventory of the debtor's movable property.

The court order referred to in paragraph 1 of this Article has the effect of an enforcement order.

The inventoried property referred to in paragraph 1 of this Article vested to the debtor for keeping shall be clearly marked as pledged property.

### **Application of Other Provisions of the Law**

#### **Article 251**

The provisions pertaining to Articles 245 and 146 of this Law shall also apply to securing a creditor's monetary claim by establishing a mortgage over the debtor's real estate based on a contract between the parties.

The provisions pertaining to Articles 73 through 78 of this Law shall also apply to securing a creditor's monetary claim by establishing a pledge over the debtor's movable property based on a contract between the parties.

### **Sale of Real Estate and Movable Property of the Debtor**

#### **Article 252**

On the creditor's proposal, if the court deems the parties' agreement pursuant to Article 249 of this Law to be enforceable, then the court shall by an order upon the creditor's request allow and realize enforcement against the debtor's real estate or movable property for the purpose of settling the creditor's secured monetary claim in conformity with the provisions for enforcement against real estate (Articles 140 to 186), and the provisions for enforcement against movable property (Articles 69 to 90), except for the provisions for exemption from enforcement.

The court order pertaining to paragraph 1 of this article has the effect of an enforcement order.

The record included in the enforcement order for enforcement against real estate (Article 144 paragraph 1) shall have legal effect from the date on

which the mortgage on the real estate was recorded in the course of the security procedure (Articles 250 and 251).

The inventory of the movable property cannot be repeated. The inventory of movable property shall have legal effect from the date on which the pledge was created in the course of the security procedure (Article 250 and 25, paragraph 2).

## **2.24. PRECEDING MEASURES**

### **Local Jurisdiction**

#### **Article 253**

The court having jurisdiction over enforcement against secured movable property shall have local jurisdiction to decide on proposals for securing by a previous measure and for the enforcement of such measures.

### **Conditions for Permitting a Preceding Measure**

#### **Article 254**

A preceding measure shall be permitted based on a domestic decision pronounced for a monetary claim has did not become valid or enforceable, if the creditor can make evident the risk of obstructing or making difficult the realization of the claim without such security.

The provision in paragraph 1 of this Article shall also apply to settlements concluded before the court or before an administrative agency, if the claim is not yet matured..

A preceding measure may be permitted on the basis of a payment order issued on the basis of a bill of exchange or a check.

### **Anticipated Risk**

#### **Article 255**

Subject to Article 254 of this law, a risk is deemed to exists if the security proposal is based on one of the following

1. a payment order issued on the basis of a bill of exchange or a check against which a petition was submitted in a timely manner;
2. a verdict passed in a criminal case, in which a property claim was accepted and further criminal prosecutions on the same basis are proceeded;
3. a decision whereby the enforcement will be implemented abroad;
4. a judgement based on a confession that has been appealed;
5. a settlement concluded before a court or an administrative agency that has been refuted in a manner provided by law.

In the cases pertaining to paragraph 1 items 4 and 5 of this Article, the court may on the debtor's proposal condition the securing by means of a preceding measure with the creditor depositing a guaranty in an amount equal to the damages that the debtor could suffer by allowing the preceding measure.

### **Securing a Claim in which the Installments are Not Yet Due**

#### **Article 256**

Claims for legal life support, compensation for lost life support due to the provider's death and for compensation for damages as a result of impaired health or reduced or lost working capacity, may be secured with a preceding measure of not yet due installment, but only if such installments shall become due within one year.

In the cases pertaining to paragraph 1 of this Article, risk shall be assumed to exist if implementation of enforcement procedures against the debtor were necessitated for the purpose of collecting an overdue installment or if implementation of such enforcement procedure have been proposed.

### **Types of Preceding Measures**

#### **Article 257**

The court shall allow the following preceding measures:

1. inventory of movable property;
2. a ban on the debtor's debtors pay meet of a claim to the debtor or the delivery of movable property to the debtor as well as a ban on the debtors collection of a claim receipt of movable property and disposal of such property;
3. a ban on the Payment Bureau to payment out to the debtor or to a third person, against an order from the debtor, an amount of money for which a preceding measure has been allowed;
4. a record on a security interest in the debtor's real estate or over an existing registered right in the real estate.

The court, on the creditor's proposal, may, if necessary, allow two or more preceding measures upon consideration of the circumstances.

### **Ban on Monetary Payments of the Debtor**

#### **Article 258**

Funds maintained in the debtor's account at the Payment Bureau over which exists is a ban for payments cannot be transferred from that account during the ban, except for the purpose of paying a secured claim.

## **Sale of Inventoried Property and Transfer of a Debtor's Claim**

### **Article 259**

A court shall allow the sale of inventoried movable property that is subject to rapid deterioration or a risk of substantial decline in value.

The sale of the inventoried property shall be effected in accordance with the provisions of this law that relate to enforcement over movable property.

Where the previous measure is allowed by a ban on the payment of the claim, the court may, upon the creditor's or debtor's proposal permit the creditor to transfer the claim for which payment is banned if there is a risk that the claim will not be collected or a risk of losing the right of recourse against a third party due to a default.

The proceeds of selling the property or collecting the claim shall be maintained by a court until the previous measure is terminated or until the creditor proposes enforcement, not to exceed 30 days following the date of enforceability of the claim.

## **Court Order for Permitting a Preceding Measure**

### **Article 260**

Court orders which permit a preceding measure shall specify the amount of the claim being secured, interest rates and expenses, the security instrument and the period of time for which it is allowed.

The time period referred to in paragraph 1 of this Article may not exceed eight (8) days following the creation of the conditions for mandatory enforcement.

If the time period pursuant to paragraph 1 of this Article expires before the decision on the preceding measure becomes valid, the court shall, on the creditor's proposal, extend the time period if the circumstances under which this measure was allowed have not changed.

## **Termination of a Previous Measure**

### **Article 261**

On proposal from the debtor, the court shall terminate the procedure and invalidate the undertaken actions undertaken, upon the debtor's proposal, if:

1. the debtor deposited with a court the amount of the secured claim, including interest and expenses;
2. the debtor proves that the claim has already been collected or that it has been sufficiently secured at the time that the order for permitting preceding measures was passed;
3. it has been decided in final and valid form that the claim did not exist or that it has ceased to exist.

The court shall terminate the procedure and invalidate actions if the conditions for mandatory enforcement are not met within 15 days of the expiration date of preceding measure

In the cases pertaining to paragraph 1, items 2 and 3, and paragraph 2 of this Article, the creditor shall reimburse the debtor for expenses caused by allowing and realizing the preceding measure.

The existence and the extent of the damage shall be confirmed in a court decision, upon the debtor's proposal

The appeal against the court order pertaining to paragraph 5 of this Article shall stay its enforcement.

### **Termination of Enforcement Where the Creditor Does Not Demand Enforcement**

#### **Article 262**

Where the conditions for mandatory enforcement have been satisfied prior to the expiration date of a preceding measure, the court may terminate upon the debtor's proposal the procedure and invalidate the undertaken actions, if the creditor fails to submit an enforcement proposal within 15 days of the date on which of such conditions were created.

## **2.25. INTERIM MEASURES**

### **1. General Provisions**

#### **Local Jurisdiction**

##### **Article 263**

Where a civil or other court procedure has not been initiated for a decision on a security proposal for an interim measure and for implementation of the interim measure, local jurisdiction shall lie with the court that would otherwise have jurisdiction for deciding on the enforcement proposal.

If a proceeding has been initiated, local jurisdiction shall lie with the court in which the procedure was initiated.

The court having jurisdiction to allow an enforcement proposal on basis of an executive title passed in an administrative procedure, shall also have jurisdiction to decide on a proposal for allowing an interim measure after the procedure has been concluded.

#### **When Interim Measures May Be Allowed**

##### **Article 264**

An interim measure may be allowed before and during a court or administrative procedure, and after the conclusion of such procedures, but before the actual implementation of the enforcement.

## **When Interim Measures Are Not Allowed**

### **Article 265**

An interim measure shall not be allowed if there are grounds [conditions] for allowing a preceding measure capable of achieving the same goal (Article 254).

## **2. Interim Measures for Securing a Monetary Claim**

### **Grounds for Allowing an Interim Measure**

#### **Article 266**

An interim measure for securing a monetary claim may be permitted if the creditor has made the existence of the claim evident and if there is a risk that the debtor would obstruct or make significantly more difficult the collection of the claim, in the absence of such a measure by transferring all of his/her property or assets, conceal them or dispose of them in another way.

The creditor need not prove the risk if s/he makes evident that the debtor would suffer only insignificant damages.

A risk shall be deemed to exist if the claim is due abroad.

An interim measure for preventing payment against an acceptance order may be allowed if the proposal for such a measure was made in a complaint.

### **Types of Interim Measures**

#### **Article 267**

For the purpose of securing a monetary claim, any measure that will achieve the goal of enforcing the security may be allowed particularly:

1. a ban preventing the debtor from disposing of movable property, as well as an order requiring the debtor to keep the movable property;
2. a ban on the debtor from transferring [assign] or encumbering the real estate or property rights in the real estate registered in his/her benefit [name] by making a record of such a ban in the public registry;
3. a ban on the debtor's debtor from paying out a claim or delivering movable property to the debtor, as well as a ban on the debtor from accepting movable property, collecting a claim and disposing of them; and
4. an instruction to the Payments Bureau, where the accounts of the debtor or a third person are maintained, to refrain from paying from the debtor's account for which an interim measure has been allowed, although the debtor has requested such payment to be made.

A security interest cannot be created by an interim measure.

### **3. Interim Measures to Secure a Non-monetary Claim**

#### **Grounds for Allowing an Interim Measure**

##### **Article 268**

An interim measure for securing a non-monetary claim may be permitted if the creditor makes evident the existence of the claim and the risk that without such a measure the debtor would obstruct or make significantly more difficult the collection of the claim.

An interim measure may also be allowed if the creditor makes evident that the measure is necessary to prevent the use of force or the damage caused could be indemnified.

The provisions pertaining to paragraphs 2 and 3 of Article 266 of this Law also apply to interim measures for securing a non-monetary claim.

#### **Types of Interim Measures**

##### **Article 269**

For the purpose of securing a non-monetary claim, any measure that will achieve the goal of such securing may be allowed, particularly:

1. a ban on transferring [assign] or encumbering the movable property that is the subject of the claim, (as well as an order to keep such movable property;)
2. a ban on transferring [assign] or encumbering the real estate that is subject of the claim by making a record of such ban in the public registry;
3. a ban on activities of the debtor that could cause damages to the creditor, as well as a ban on changing the movable property that is subject of the claim;

- I. a ban on the debtor's debtor from delivering to the debtor the movable property that is subject of the claim;
- II. payment of compensation (salary) to an employee during a lawsuit for illegal termination of employment, to the extent it is necessary for his/her life support and for the life support of individuals that s/he is obligated to support according to law

#### **4. Joint Provisions**

##### **Guaranty Instead of an Interim Measure**

###### **Article 270**

In the proposal for allowing an interim measure or subsequently, the creditor may state that, s/he will be satisfied with a guaranty of a specified amount of money deposited with the court by the debtor as an alternative to pronouncing an interim measure.

The deposit of a guaranty instead of an interim measure may also be allowed pursuant to the debtor's proposal.

If the debtor deposits a guaranty, the court shall terminate the procedure and invalidate actions already initiated.

##### **Guaranty as a Condition for Allowing an Interim Measure**

###### **Article 271**

Upon the creditor's proposal, the court may allow an interim measure even if the creditor fails to make evident the existence of the claim and risk, s/he deposits the amount determined by the court within a specified period of time as a guaranty for damages that the debtor could suffer as a result of allowing and realizing the interim measure.

Upon the debtor's proposal and subject to the conditions of the case, the court may act pursuant to paragraph 1 of this Article even if the creditor makes the existence of the claim and risk evident, act according to paragraph 1 of this article.

##### **Allowing Several Interim Measures**

###### **Article 272**

Considering the circumstances of the case and on proposal from the creditor, the court may, if necessary, allow several interim measures.

##### **The Time Period Allowed for an Interim Measure**

###### **Article 273**

Orders that allow for an interim measure shall also determine the duration of such measure. If the measure was permitted before a complaint was filed or before the initiation of another procedure, the order shall also

determine the time limit within which the creditor shall file a complaint or a proposal for initiation of another procedure for the purpose of justifying the measure.

Upon the creditor's proposal, the court shall extend the duration of the interim measure if the conditions under which such measure was allowed have not changed.

The proposal pertaining to paragraph 2 of this Article may be filed only within the period of time allowed for the interim measure.

### **Termination of an Interim Measure**

#### **Article 274**

A court may, upon the debtor's proposal, terminate the procedure and invalidate actions undertaken if: (i) creditor fails to file a complaint within the period of time specified; (ii) creditor fails to initiate another procedure to justify the interim measure; or (iii) the time period allowed for the interim measure expires.

If the circumstances under which the measure was permitted have been changed such that the measure is redundant, the procedure shall be terminated upon the debtor's proposal and the actions undertaken shall be invalidated.

The procedure shall be terminated and the action undertaken shall be invalidated in cases provided for in Article 261, paragraph 1 of this Law.

### **Compensation for Damages to the Debtor**

#### **Article 275**

The debtor shall be entitled to compensation from the creditor for damages that s/he suffered as a result of interim measures that are later determined to be groundless or not sufficiently justified by the creditor.

The provision pertaining to Article 261, paragraph 5 and 6, of this Law shall apply to such cases.

## **2.26. APPLICATION OF THE PROVISIONS PERTAINING TO THIS LAW ON OTHER ORGANIZATIONS AND ASSOCIATIONS**

#### **Article 276**

The provisions related to legal entities shall apply to other organizations and associations unless otherwise provided by this Law.

Part Four  
**TRANSITIONAL AND CONCLUDING PROVISIONS**

**Article 277**

Enforcement and security procedures that commenced prior to the effective date of this Law shall be governed by the Law on the Enforcement Procedures (“Official Bulletin of SFRY”) No. 20/78, 6/82, 74/87, 57/89, 29/90 and 5/91)

**Article 278**

The Law on Enforcement Procedures (“Official Bulletin of SFRY” No. 20/78, 6/82, 74/87, 57/89, 29/90 and 5/91) shall be superceded at such time as this Law becomes effective pursuant to Article 279.

**Article 279**

This Law shall be effective on the eighth day following its publication in the “Official Gazette of Republic of Macedonia”.

**Notice**

**With the coming into force of the Law on pledges on movable property and rights, (“Official Gazette of the R.Macedonia” numb. 21/98) the regulations, concerning the collateral law on movable properties on the basis of an agreement between the negotiating parties, are declared void and null.**