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**Consultative Council of European Judges  
(CCJE)**

**The role of judges in the enforcement of judicial decisions, in their relationships with other state functions and/or other actors**

**QUESTIONNAIRE**

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**A) IN CIVIL AND ADMINISTRATIVE MATTERS**

1. Is the authority responsible for the enforcement specified in the law or in the constitution?

Yes – The Law on Bailiffs

Please specify

No

2. What are the competences of the judge in the enforcement procedure?

➤ He is responsible for the enforcement

Yes

No

➤ He has others competences as regards enforcement

Yes

No

If yes, please specify.

A judge:

- authorises the access to a residence for a bailiff, if the debtor does not allow to entry in good faith;
- allows the bailiff to exercise the enforcement proceedings in a territory served by another bailiff;
- approves the distribution act of recovered amounts for creditors
- investigates complaints concerning the activities of bailiffs
- etc.

3. Is the judge responsible for the enforcement (if exists) the same than the judge who took the decision?

Yes

No

4. Do the parties have to make a new application for the decision to be enforced?

Yes

No

5. Shall this new application end with a judicial decision?

Yes

No

6. Is the judge working with other actors involved in the enforcement procedure?

Yes

Please specify which actors

No

7. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

Yes

No

➤ He controls and supervises the procedure (eg. timeframes) and the work done by the other actors?

Yes

No

➤ Others competences?

Yes

No

If yes, please specify

8. What is the training of the person responsible for the enforcement if it is not a judge?

In Lithuania, the system of private Bailiff's operates. A training of bailiffs is organised by the Bailiffs Chamber of Lithuania and co-ordinated by the Ministry of Justice.

9. Can the parties appeal if the decision is not enforced within a reasonable time?

Yes

No

If yes, what are the sanctions of this appeal?

Court may order a bailiff to carry out specific actions of enforcement if it is found that the enforcement is delayed. Also, a court can award damages if bailiff delays the procedure and thus causes damage.

10. What are the powers of the judge to speed up the enforcement?

A judge does not have a direct control of bailiff actions. However, if the debtor or creditor apply to the court that the bailiff delays the procedure, the court after investigation could give references to bailiff which action should be taken.

11. What are the powers of the judge to force the enforcement?

Only a creditor could start the procedure of enforcement. The exception concerns the decisions of the administrative court. In this case, the court

may refer an adopted decision to a bailiff for the enforcement and the decision is enforced by the general procedure.

12. What are the powers of the judge to protect the rights of parties and of third parties in the enforcement?

The court could refuse to approve the procedural documents written by bailiff in order to protect the rights of the parties in enforcement proceedings (eg. refuse to authorise the access to the debtor's home, refuse to approve the act of the realization of debtor's assets, refuse to approve the act of recovered amounts, punish or refuse to punish those who violates the enforcement procedure). Also, the court could investigate the complaints against bailiff's activities. In other cases, the court has no right to initiate proceedings to protect the rights of parties in the enforcement.

13. In your country, what are the main obstacles to the enforcement of decisions?

The Law on Bailiffs and the new Code of Civil Procedure *inter alia* regulating the enforcement of judgements entered into entry in 2003. Those acts constituted a legal foundation to create an institution system of private bailiffs. The present law lacks the proper regulation on the bailiffs' system, eg. the remuneration of services. The misleading court practice is formed, especially in cases when debtor's rights are defended. As a result, the recovery from the debtor's assets is aggravated.

14. According to you, what main changes are needed to improve the effectiveness of the enforcement proceedings in your country?

- to simplify the procedure of enforcement of judicial decisions,
- to clarify the regulation of the responsibility of the parties for the passive participation in the enforcement procedure.

15. Are the enforcement procedures similar for civil and administrative matters?

- Yes  
 No

If not, please clarify the differences.

B) IN CRIMINAL MATTERS

16. Is the authority responsible for the enforcement of sentence specified in the law or in the constitution?

- Yes  
Please specify  
 No

17. What are the competences of the judge in the enforcement of sentences:

➤ He is responsible for the enforcement?

Yes

No

➤ He has others competences as regards enforcement?

Yes

No

If yes, please specify –

The court forwards the enforcement of the judgement in criminal cases to the executive authorities (the police, bailiff etc).

18. Is the judge responsible for the enforcement (if exists) the same than the judge who took the decision?

Yes

No

19. Is the judge working with other actors involved in the enforcement of sentences?

Yes

Please specify which actors

No

20. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

Yes

No

➤ He controls and supervises the procedure (eg timeframes) and the work done by the other actors?

Yes

No

➤ Others competences?

Yes

No

If yes, please specify.

An executive institution can apply to the court with a suggestion to release the convict on probation, to reduce a time of sentence etc.

21. What are the powers of the judge to protect the rights of detainees and of third parties in the enforcement?

The activities of officials enforcing judgements could be challenged to the court, but such investigation could not be linked with a judge who imposed the punishment.

22. What are the powers of the judge as regards the alternative solutions to prison?

A court could award an alternative punishment to custodial sentences when it is allowed by the Criminal Code.

23. What are the powers of the judge as regards the implementation of sentences (arrangement of sentence, conditional release, etc.)?

A court is not directly involved in the enforcement of judgements. However, the institution exercising the punishment could apply to the court with a proposal to release the convict from the punishment before the expiration of a term, to reduce the period of punishment etc. A court investigates such proposals.

24. What are the powers of the judge as regards the effective payment of fines?

If the bailiff could not recover a fine (imposed as a criminal punishment), he may apply to the court asking for a replacement of the fine to the arrest. A bailiff recovers fines imposed by a court under the general procedure of judgements' enforcement, unless a fine is imposed as punishment for a criminal offence.

25. What are the main reasons for complaints concerning the rights of detainees?

Unreasonable detention.

26. Who is responsible in your country, for complaints about living conditions in prison? What is the procedure for processing such complaints?

The Ministry of justice is responsible for the conditions of detainees. A person who believes what his rights are violated can appeal to a court. Such an appeal is examined by the general procedure.

27. In your country, what are the main obstacles to the enforcement of sentences?

Frequently there are poor living conditions of detainees in the prisons.

28. According to you, what main changes are needed to improve the effectiveness of the enforcement of sentences in your country?

A court is not directly involved in the enforcement proceedings of sentences.