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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**

**Responds of the Czech Republic**

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

**QUESTIONNAIRE**

**A) IN CIVIL AND ADMINISTRATIVE MATTERS**

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

**Yes**

Please specify : It is stipulated in Code of Civil Law Procedure, Code of Administrative Procedure and Rules of Execution Procedure

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

➤ He is responsible for the enforcement

➤ **Yes.**

➤ He decides, that execution could be carried out.

➤ He also authorises concrete executor to do it.

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

**No.**

We have judges specialised on execution proceedings.

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

**Yes.**

Party which has a duty according to judgement should perform it voluntarily. If not - it is up to the party which should obtain this performance from the other party (but has not obtain any) to bring an application for an execution of the judgement.

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

**Yes.**

Judge should order an execution of judgement or decision etc.

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

**Not necessarily.**

Only in special cases stipulated by law or in case that judge considers it necessary.

7. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:  
See answer to question No 2.

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

**Yes.**

But only in case that some of the actors bring the complaint or require some cooperation from the part of judge.

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

There are requirements stipulated by law – he has to be graduated in law, has to pass special exams, has to be unblemished, has to have three years practice.

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

**Yes.**

They can 1) either bring a special action for inactiveness of the court or 2) to bring a complaint against the person of executor

Ad 1 - Due to the action higher court can order to lower one to act in the case in determined term

Ad 2 - Due to the complaint – an executor could undergo disciplinary proceedings – sanctions differ from fine to removal from the office,

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

He can provide an executor with any information necessary for the execution (mainly about the person who should perform the duty, his property, account etc).

He can initiate the disciplinary proceedings against the passive executor or to authorise another one to substitute him.

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

He orders the enforcement but it is carried out by another person – by executor. In some cases he can force the enforcement by imposing fines to obliged party for obstructing (impeding).

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

He can stop the enforcement, if the law conditions are not met. He can decide on exemption of some things (which must not be subject to execution) from execution.

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

Those who are threatened by execution very often try secretly to transfer their property (money) to other persons or abroad in order to avoid execution.

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

To strengthen an international cooperation in fight against those who transfer their money or property abroad.

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

Generally yes. The procedure differs because of the method of enforcement depending on the subject of the enforcement.

B) IN CRIMINAL MATTERS
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16. Is the authority responsible for the enforcement of sentence specified in the law or in the constitution?

**Yes.**

It's specified in the Code of Criminal Procedure.

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

Generally it is the judge of the court of the first instance who is responsible for an enforcement of judgement. Court clerks can be entrusted with some less important acts by judge.

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

Generally **yes**.

In some cases it can be another judge. For example some decisions concerning the service of imprisonment are done by the court located in the district where is the prison, in which the sentence is being served.

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

**Yes.**

The other actors are – prosecutor, sentenced person, in some cases also and advocate, director of the prison, police etc.

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.**

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

**Yes.**

He can decide under the circumstances stipulated by Criminal Code on the releasing from completion the remainder of any sentence, on parole etc. He can also decide on the change of the sentence, for example that the conditionally suspended sentence will be executed in prison. Similarly he can change a fine which has not been paid by sentenced person to imprisonment etc.

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

He is responsible that enforcement of punishment will be done in accordance with law. If is not the not the case he is obliged to make necessary steps either on his own inciative or on the motion of prosecutor or sentenced person.

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

According the Criminal Code judge should prefer if possible alternative solutions – to impose conditionally suspended punishment, house (home) arrest, community service, fine etc.

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

The decisive aspects of the implementation of the sentence are determined by judge´s decision.

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

He can allow person who has been sentenced to pay a fine to postponement or to instalments of payment. If sentenced person does not pay having no serious reason, judge can change such a sentence to imprisonment.

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

Reason vary. We face mainly different complaints on conditions of detainees daily life in prison, most serious are presented as alleged violation of their fundamental human rights.

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

It depends on the character of the reason for complaint. It could be solved either by director of prison or by prosecutor authorised to supervise the prison or the court in case of violation of fundamental rights of detainee.

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

Some sentenced person try to avoid their criminal responsibility and punishment by fleeing the country. They usually try to escape to countries which have no treaty on the mutual legal assistance or extradition treaty with the Czech Republic. Even the cooperation on extradition with some countries of the EU is still not smooth.

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

Mainly to increase number of countries having treaties on mutual legal assistance including extradition with the Czech Republic and the EU. Then to harmonize contain of Criminal Codes and Codes of Criminal Procedure within the EU.