

Croatia

Law on Execution
(adopted in June 1996)

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Part One

Chapter One - Basic Provisions

The Contents of the Law

Article 1

(1) This Law governs the procedure by which courts carry out the execution of claims on the basis of documents of execution and trustworthy documents (execution procedure) and the securing of claims (security procedure), unless determined otherwise by a special law.

(2) The provisions of this Law are not applied to execution procedures regulated by a special law.

The meaning of certain expressions

Article 2.

Certain expressions used in this Law have the following meanings:

1. the expression “claim” means a right to some payment, the performance of some action, the refrainment from some action, or some sufferance,
2. the expression “distrainer” means the person who has started the proceedings to execute some claim and the person for whose benefit this procedure has been started ex officio,
3. the expression “proposer of security” means the person who has started proceedings to provide security for some claim and the person for whose benefit this proceeding has been started ex officio,
4. the expression “distrainee” means the person against whom the claim is to be executed,
5. the expression “the opposer of the security” means the person against whom the claims are secured,
6. the expression “party” means the distrainer and the distrainee and the proposer of the security and the opposer of the security,
7. the expression “participant” means a person in the execution or security proceeding who is not a party and takes part in the proceedings because in it a ruling is being made that affects some right or because he has a legal interest in the same,
8. the expression “an execution ruling” means a ruling through which the proposal for execution is accepted in its entirety or in part or through which execution is ordered ex officio,
9. the expression “security ruling” means a ruling through which the proposal for security is accepted in its entirety or in part or through which security is ordered ex officio,
10. the expression “court distrainer” means an employee of the court who at the order of the court directly undertakes certain actions in the execution procedure or in the security proceeding,
11. the expression “agriculturist” means a person whose main source of income is agriculture.

Starting off a Procedure

- (1) An execution procedure is started off at the proposal of the distrainer, and a security procedure at the proposal of the proposer of the security.
- (2) When, by law, a certain body or person that is not the person that has the claim is authorised to start off a procedure so as to bring it to its decision, this body or person has, in the procedure, the position of distrainer or proposer of security.
- (3) An execution procedure and a security procedure are also started off ex officio when this is specifically provided for by the law.
- (4) If the procedure is started off by some body or party that is not the person that has the claim, or, that is, ex officio so as to implement or secure the claim of a given person, this person can take part in the procedure with the authority of an distrainer, or a proposer of security, but cannot undertake actions that would prevent the implementation of the procedure started off at the proposal of the given body or person, or ex officio.
- (5) If a body or person as defined by Para. 4 of this Article decides to withdraw the proposal by which the procedure was started off, or if the court decides to halt a procedure started off ex officio, the person with the claim because of which the procedure was started can take over the running of the procedure. This person must give notice about taking over the procedure within a period of fifteen days from the day when the announcement is made that the proposal is withdrawn or that it is intended to halt the procedure.
- (6) When by law some body or person is bound to provide the court with a certain execution document or inform it in some other way about the reason for starting off an execution procedure or a security procedure ex officio, they do not have the position of a party in these procedures.

The means and the subject of execution and security

Article 4

- (1) The means of execution and security are enforcing actions or security actions or a system of such actions through which according to the law a claim is executed or secured.
- (2) The subjects of execution and security are things and rights that according to the law can be distrained so that a claim can be executed or secured.
- (3) Enforcing actions or security actions can be directly implemented against an distrainee, an opposer of security and other persons in accord with this law.
- (4) Things that are outside trade cannot be the subject of execution, as cannot other things as ordained by a special law.
- (5) Claims [arising] on the basis of taxation and other levies cannot be the subject of execution.
- (6) Facilities, weaponry and equipment meant for defence cannot be the subject of execution.
- (7) Whether a thing or a right can be the subject of execution, that is whether the execution of some thing or some right is subject to restriction, is judged with respect to the circumstances obtaining at the time the execution proposal is made, unless otherwise specifically determined by this Law.

Restriction of the means and subjects of execution and security

Article 5

- (1) The court determines execution or security by those means and for those subjects that are stated in the execution proposal or the security proposal.
- (2) If a number of means or subjects of execution, or security, are proposed, the court will, at the suggestion of the distrainee, or the opposer of the security, restrict the execution or security only to some of these means or subjects, if they are enough to execute or secure the claim.
- (3) The court can, at the suggestion of the distrainee, or the opposer of the security, in accord with this Law, determine other means or execution or security instead of those that have been proposed.
- (4) If a legally effective ruling about execution of a given subject or means cannot be implemented, an distrainer can, in order to settle the same claim, propose new means or subject of execution. In this case, the court will continue with the execution.

The protection of the dignity of the distrainee or the opposer of the security

Article 6

While execution or security is being carried out, care will be taken of the dignity of the distrainer or opposer of security and that the execution or the security shall be as little detrimental to him as possible.

Submissions, hearings and files

Article 7

- (1) In an execution or a security procedure the court proceeds on the basis of submissions and other writings.
- (2) The court holds a hearing when it is determined by this Law or when it considers that the holding of a hearing is to the point.
- (3) Instead of a minute, the judge can compose an official note about the hearing.
- (4) A court can hear a party to or a participant in the procedure outside the hearing if this is foreseen in this Law, or if it considers that it is necessary for the clarification of individual questions or responses about some proposal of a party.
- (5) The absence of one or both parties and participants from a hearing, or their failure to comply with a court summons for a hearing, will not prevent the court from continuing with the procedure.
- (6) In an execution procedure or a security procedure the procedure cannot be adjourned.
- (7) Submissions in an execution procedure must be submitted in a number of examples such as to be adequate for the court and for the opposing party.

Service

Article 8

- (1) Service is made to a legal entity entered into a given court or other register at the address given in the proposal. If service at the address given in the proposal is not successful, service will be done at the address of the headquarters written in the register. And if service cannot be done at this

address either, it will be done by putting a writing on the notice board of the court. It will be considered that service has been done on the eighth day from the putting of a writ on the notice board.

(2) The provisions of Paragraph 1 of this Article will be applied to private persons too who carry out a certain registered occupation (tradesmen, sole traders, notaries public, lawyers, physicians and so on) when service is made to these persons in connection with this occupation.

(3) If service is made to certain persons in the court, on the basis of their application and the approval of the presiding judge, the writ addressed to them are placed by the court in their special post-box in a room set aside for this purpose in the court. Service is made by an officer of the court. Writs that are served via a post-box cannot be accessible to the persons they are being served to before they sign the service note. Writs are served in closed envelopes in which service is carried out via the post. While the writs are being taken, all the writs placed in the box have to be taken.

(4) Every writ served in the way described in Paragraph 3 of this Article will have written on it the day when it is placed in the post-box of a person to whom service is made in this way. If the writ is not collected within a period of eight days, service will be made by post or in some other way approved by the law.

(5) The presiding judge will withdraw the permission referred to in Paragraph 3 of this Article if it is determined that the person to whom it is given collections writs irregularly or attempts to abuse this method of service.

(6) When it is foreseen by this Law that service or any other action is done by a notary public, the service, or action, are done in such a way that the notary public, at the request of an authorised person or body, via the post or directly, delivers the writ and makes a minute of this, a certified copy of which will be served to the court.

Adjournment of a procedure

Article 9

In the event of an execution procedure or a security procedure being adjourned, the court will, at the suggestion of a part or ex officio, if this is necessary for the protection of the rights and interests of some one of the parties, appoint a temporary representative to the party because of which there is an adjournment, and this person will go on with the procedure before the ending of the reason which caused the adjournment.

The composition of the court and the ruling

Article 10

(1) In the first instance an execution proceeding and a security proceeding are heard by, and a judgement is given by, an individual judge, and in the second instance by a council composed of three judges.

(2) If some executed satisfaction or security of some claims is being decided about in a civil, criminal or some other judicial proceeding, these judgements are made by the court as composed for the handling of the given judicial proceeding.

(3) A ruling about an execution proceeding or a security proceeding is made by the court in the form of a ruling or a decision.

- (4) A decision gives an order to a court distrainer to carry out certain actions and decides about the management of the procedure and about certain other questions as expressly foreseen by this Law.
- (5) A decision in the second instance is made by the president of the council.

Legal recourse

Article 11

- 1) An appeal can be made against a ruling made in the first instance, unless otherwise provided for by this Law.
- (2) An objection can be made to rulings of execution on the basis of credible documents.
- (3) An appeal must be made within a period of eight days of the day of the service of the first instance ruling, unless otherwise provided for by this Law.
- (4) An appeal cannot put off the carrying out of the ruling, unless otherwise provided for by this Law.
- (5) A ruling rejecting an appeal and confirming a first instance ruling or altering a first instance ruling is legally effective.
- (6) There is no legal recourse against a decision.
- (7) If an appeal against a ruling is allowed, the court will, unless it acts according to Article 47 Paragraph 1 of this Law, copy the file and serve a copy of the file together with the appeal to the court of second instance. Until a judgement is made by the second instance court, the court of first instance will carry out those actions that it is authorised to carry out before the legal effectiveness of the overturned ruling, unless provided for otherwise by this Law.

Review, repetition of a proceeding, and return to the preceding state of affairs

Article 12

- (1) In an execution and in a security proceeding review and repetition of proceedings are not allowed, unless when repetition of the proceedings is required in a case as defined by Article 54 Paragraph 6 of this Law.
- (2) Return to the preceding state of affairs is allowed only because of missing a period for an appeal or an objection.

The urgency and order of proceedings

Article 13

- (1) In execution and security proceedings the court is obliged to act urgently.
- (2) The court is bound to work on cases in the order it has received them in, unless the nature of the claim or special circumstances require that the court proceed differently.

The costs of proceedings

Article 14

- (1) The costs of proceedings in connection with determining and carrying out execution and

security are borne in advance by the distrainer or the proposer of the security.

- (2) The distrainer or the proposer of the security is bound to pay the advance of the costs within the period determined by the court. The court will halt execution or security if the costs are not paid in advance in this period, and without it execution and security cannot be carried out. If only certain actions depend on the advance of costs being made, these actions will not be carried out.
- (3) The court itself will from its own funds give an advance on the costs of proceedings initiated ex officio.
- (4) The distrainee or the opposer of the security is bound to indemnify the distrainer or the proposer of the security for the costs that were necessary for the execution or the security.
- (5) The distrainer or the proposer of the security are obliged to return to the distrainee or the opposer of the security any costs that they have caused them with due cause.
- (6) An application for indemnification for costs will be submitted at the latest within in period of thirty days of the close of proceedings.
- (7) The costs of the proceedings will be determined by the court in the execution proceedings and it will also determine, at the suggestion of a party, execution so that these costs can be recovered.
- (8) An distrainee or proposer of security can in the very execution proposal or security proposal require that, for the collection of the costs of the proceeding that are foreseen, execution be determined against the distrainee or the opposer of the security. On the basis of this kind of execution ruling the court will carry out measures by which, for the benefit of the distrainer or the proposer of the security, rights are obtained to parts of the property of the distrainee or the opposer of the security to ensure the future recovery of the costs of the proceeding.

Security

Article 15

- (1) When this Law prescribes the given of insurance, the insurance is given in cash. Exceptionally, the court can permit the giving of insurance in the form of a banker's guarantee, securities that have a market value and valuables the worth of which is easily ascertainable on the market and which are readily made liquid.
- (2) The Republic of Croatia and units of local government and the administration and state bodies are not bound to give security when they are taking part as parties in a proceeding.
- (3) The opposing party obtains a lien on the security that is given.
- (4) If the court in an execution proceeding or a security proceeding judges of the right of an opposing party to some indemnification for damages or the costs of the proceedings in connection with some action for the undertaking of which the security is granted, at the proposal of this party it will in the same ruling make a judgement about the collection of the claims [arising] from this security.

Fines and terms of imprisonment

Article 16

- (1) When a fine is envisaged by this Law as a means of execution or security, this fine can be

handed down to private persons in the sum of from 1,000 to 30,000 kuna, and to legal persons in the amount of from 10,000 to 100,000 kuna. The prison term envisaged by this Law is from fifteen days to three months. During a procedure the court can sentence the same person to several prison terms for different crimes, while the sum total of prison terms in any procedure cannot amount to more than six months.

(2) If a legal person is fined, the court will also fine the responsible persons within the legal person if it determines that these persons have by their action or negligence brought about the crime committed by the legal person.

(3) If the person threatened, in line with this Law, by the court with a fine does not obey the order of the court, the court will sentence it to this punishment, and, where necessary, threaten it with such fines, and sentence them to these fines until the person does act in accord with the order of the court, unless otherwise provided for by this Law.

(4) If the private person who has been fined does not pay the fine in the period set by the court, this fine will be replaced by a prison term in line with the rules of the criminal law regulations about the replacement of a fine by a prison term. The sum total of prison terms that some person can be sentenced to by way of replacement of fines cannot amount to more than six months in the same proceedings, unless otherwise provided for by this Law.

(6) The law can threaten legal persons with fines, and the responsible persons in a legal person and other private persons with fines or prison terms, or impose a fine upon a legal person, or fine or imprison the responsible persons in a legal person or other private [i.e. physical] persons:

1. if they undertake certain actions in despite of an order or a prohibition by the court with the intention of concealing, damaging or destroying the property of the distrainee or the opposer of the security,
2. if they carry out acts of violence or acts by which the rights, security and dignity of the distrainer and proposer of the security or other persons or who take part in the security or execution proceedings can be seriously damaged,
3. if they undertake any actions against the order or prohibition of the court that can lead to irreparable or nearly irreparable damage to the distrainer or the proposer of the security,
4. if they undertake any actions through which the court, the enforcing officer of the court and other authorised persons are hindered in the execution of execution actions or security actions,
5. and in other cases foreseen by the law.

(7) The imprisonment referred to in Paragraph 6 of this Article can, on the basis of one decision by which it is determined, last at most thirty days. During the same proceedings, the same person can be imprisoned again. The total length of imprisonment for any person during the same procedure cannot be longer than six months.

(8) The court will fine a private person up to 5,000 kuna and a legal person up to 20,000 kuna, if they affront [libel, offend] the court, a party or another participant in the case. A representative of a party can also be fined if the same representative is responsible for contempt of court. The provisions of Paragraphs 1 to 5 of this Article are applicable to this fine in an appropriate manner.

(9) A fine according to the provisions of this Article cannot be imposed on the Republic of Croatia or a unit of local government or the administration or any bodies of them, and the responsible

private persons in these bodies cannot be fined or sentenced to prison terms in connection with their office.

(10) A prison term imposed according to the provisions of this Law will be carried out according to the way in which prison terms hand down in criminal proceedings are carried out.

(11) The court will execute fines and prison terms ex officio, and the costs of the execution will be a burden on the state budget.

(12) A fine and a prison term in the sense understood by the provisions of this law have no effect on the criminal responsibility of persons who are fined or imprisoned during an execution or a security procedure, but the punishment to which someone is sentenced according to the provisions of this Law will be counted in to the punishment to which someone is sentenced in a criminal proceeding.

(13) The court can threaten persons as defined by Paragraph 6 of this Article with a fine or imprisonment if there is reasonable fear that the legal or physical might do some punishable action as defined by Paragraph 6 Points 1 to 5 of this Article, during which it can order or forbid the undertaking of certain actions by these persons.

(14) In the choice of a punishment or the threat of a punishment, or the choice of the kind of punishment, the court shall apply a milder punishment if the same ends can be attained by the punishment.

(15) The court will make a ruling about imprisonment or a fine. A ruling about a penalty can be appealed against within a period of three days. The court of the second instance will make a judgement about this appeal about a penalty ruling within a period of three days.

Execution of a judgement of a foreign court

Article 17

Execution on the basis of a decision of a foreign court can be determined and carried out in the Republic of Croatia only if this judgement fulfils the conditions for recognition and execution as prescribed by an international agreement or the law.

Execution of the property of a foreign country

Article 18

Execution of or security against the property of a foreign country in the Republic of Croatia cannot be ordered without the prior consent of the Ministry of Justice of the Republic of Croatia unless the foreign country has agreed to execution or security.

The application of the provisions of other laws

Article 19

(1) In an execution procedure and in a security procedure the provisions of the Law of Civil Proceedings are applied in an appropriate manner, unless otherwise provided for by this or another law.

(2) The provisions of the laws through which real rights and obligatory relations are governed are applied in an appropriate way to the material law presumptions and the consequences of the carrying out of an execution or security proceeding.

Part Two

EXECUTION

Section One

Common Provisions

Chapter Two

EXECUTION AND TRUSTWORTHY DOCUMENTS

The grounds for ordering execution

Article 20

The court can determine execution only on the basis of execution or trustworthy documents, unless otherwise provided for by this Law.

An execution document

Article 21

Execution documents are:

1. a judicial execution document and a judicial execution settlement,
2. an execution judgement made in an administrative procedure and an execution settlement arrived at in an administrative procedure if they speak of the settlement of a monetary obligation, unless otherwise provided for by the law,
3. an execution document from a notary public,
4. another document that is determined by the law to be an execution document.

A judgement and a settlement

Article 22

(1) A judgement is, in the terms of this Law, a verdict, ruling, payment order or other judgement made in a procedure before the court and chosen by the court, while a judicial settlement is a settlement arrived at in a procedure before the court.

(2) A ruling or a judgement which is made by a body of the state administration or a legal person with public authority in some administrative procedure is considered, in the terms of this Law, a judgement of an administrative body, while an administrative settlement is considered to be a settlement arrived at in an administrative procedure in front of this body or this person.

Executability of a judgement

Article 23

(1) A judgement of the court that has ordered the fulfilment of some claim to some payment or some action is executable if it is final and if the period for voluntary fulfilment has passed. The period for voluntary fulfilment runs from the day the judgement is served to the distrainee unless otherwise provided for by the law.

(2) A judgement of a court by which the fulfilment of some claim to some sufferance or some non-performance (sufferance) is executable if it has become final, unless in the execution document a special period for the adjustment of the behaviour of the distrainee with his obligation has been defined.

(3) A judgement made in an administrative procedure is executable if it has become executable according to the regulations that govern this procedure.

(4) On the basis of an execution judgement that has become executable in one part, execution can be determined only with respect to this part.

(5) Execution can be determined on the basis of a court judgement that has not become final and a judgement made in a legal procedure that has not become final if it is provided for by the law that an appeal or an objection or any other legal recourse do not hold up the execution.

The executability of a settlement

Article 24

(1) A court or administrative settlement is executable if the time has arrived when the claim that has to be fulfilled according to the settlement.

(2) Whether it is time for the claim to be met is shown by the minutes about the settlement or the public document or a documented according to the law.

(3) The falling due of some claim which cannot be proved in the way as defined by Paragraph 2 of this Article is proved by a legally final judgement made in a civil procedure through which the fact of falling due is determined.

(4) On the basis of a settlement that has become executable in one part, execution can be determined only with respect to this part.

The executability of a notary public document

Article 25

(1) A notary public document is executable if it has become executable according to the special rules that govern the executability of such a document.

(2) On the basis of a public notary document that has become executable in one part, execution can be determined only with respect to this part.

The suitability of an execution document for execution

Article 26

(1) An execution document is suitable for execution if it names the debtor and the creditor and the subject, kind, scope and time of the fulfilment of the obligation.

(2) If the execution document is a judgement by which the fulfilment of some claim to some payment or some action is ordered, it has to determine the period for voluntary fulfilment as well.

(3) If no time for voluntary fulfilment as defined by Paragraph 2 of this Article is determined, the court determines this by its execution ruling.

(4) In an event as defined by Paragraph 3 of this Article the court will determine the proposed execution on condition that the distrainee does not, in the time allotted him, fulfil his obligation.

The determination and collection of penalty interest

Article 27

(1) If after a judgement has been made, a settlement arrived at or a public notary document drawn up the penalty interest has changed the court will, at the suggestion of the distrainer, by an execution regulation, determine the collection of penalty interest at the changed rate for the period to which this change applies.

(2) If after the making of the judgement, the arriving at a settlement or the drawing up of a notary public document the penalty interest rate is changed, the court will, in the ruling it will make in connection with the legal recourse of the distrainee against the execution ruling, change in the execution ruling the provision about the amount of this interest for the period to which the change relates.

(3) If no payment of penalty interest on the costs of the procedure is ordered in the execution document itself, the court will, at the suggestion of the distrainer, determine in the execution ruling the collection of this interest at the regulation interest rate from the day on which the judgement is made or the settlement arrived at until the day of collection.

A trustworthy document

Article 28

(1) A trustworthy document is, according to this Law, an account (invoice?), a bill of exchange or a cheque that has been protested with return accounts ** (povratnim računima) when this is necessary to found a claim upon, a public document, an excerpt from authenticated business books, a private document authenticated according to the law and a document that is according to special regulations considered a public document. An account can also be considered to be a calculation of interest.

(2) A trustworthy document is suitable for execution if the creditor and debtor are named in it, as well as the subject, the kind, the scope and the time for the fulfilment of the obligation.

(3) When it cannot be seen from a trustworthy document whether or not the due date for the claim has arrived, execution will be determined if the distrainer as well as this document also submits a written declaration that the time for the claim to be met has arrived, and if he has named the due date.

The transfer of a claim or an obligation

Article 29

(1) Execution is determined at the suggestion of and for the benefit of a person who is not named as the creditor in the execution document if he can prove by a public or authenticated private document that the claim has been transferred to him or passed to him by some other way. If the transfer cannot be proved in this way, the transfer of the claim can be proved by a final judgement made in a civil proceeding.

(2) The provision of Paragraph 1 of this Article is applied in an appropriate way to execution against a person who is not named as the debtor in the execution document.

Conditional and reciprocal obligation

Article 30

- (1) If the obligation of the distrainee determined in the execution document is conditional upon the prior or simultaneous fulfilment of some obligation by the distrainer or the existence of some condition, the court will, at the proposal of the distrainer, determine execution if he declares that he has fulfilled his obligation, or that he has ensured that it will be fulfilled, or that this condition is in existence.
- (2) If the distrainee in his legal recourse against the execution ruling says that the distrainer has not fulfilled his obligation, that he has not ensured its fulfilment or that the condition is not in existence, the court will make a judgement about the fulfilment of the obligation or the ensuring of the fulfilment of the obligation of the distrainer, or the existence of the condition, in the execution procedure, unless a judgement about this depends on ascertaining contested facts.
- (3) If a judgement of the court as defined by Paragraph 2 of this Article does depend on the ascertainment of contested facts, the court will make its decision about the legal recourse as defined in Paragraph 1 of this Article in the execution procedure if these facts are generally known, if their existence can be ascertained by the application of the rules about legal presumption* predmnije vanje or if the distrainer can prove the fulfilment or ensuring of his obligation, or that the condition is in existence through a public document or a private document that has the same significance as a public document. In other cases the court will halt proceedings.
- (4) The distrainer will be considered to have fulfilled his obligation, or that he has ensured its fulfilment, if he has placed the subject of the thing that has to be performed on deposit* (lit in deposit) with a court or a notary public as long as this is not in opposition with his obligation as determined in the execution document.
- (5) An distrainer who in an execution procedure cannot prove, in accord with the provisions of the preceding paragraphs of this Article, that he has fulfilled his obligation, that he has ensured hits fulfilment or that the condition has come into existence, can start off a civil proceeding to determine that, on the basis of the execution document, he is entitled to seek unconditional execution in order to obtain his claim.

Alternative obligations at the choice of the distrainee

Article 31

- (1) If the distrainee has the right, on the basis of the execution document, to choose among several subjects of his obligation, and does not in the period for voluntary fulfilment himself make a choice among these subjects, and does not fulfil his obligation, the subject through which the obligation has to be fulfilled will be determined by the distrainer in the execution proposal.
- (2) The distrainee has the right of choice until the distrainer satisfies his needs in entirety by the forced fulfilment of the required performance. **
- (3) The distrainer has the right to indemnification for the costs of the procedure that has been halted because the distrainee has after the starting of the procedure fulfilled his obligation with some other subject.

Alternative authorisation of the distrainee

Article 32

(1) An distrainee who is ordered to fulfil certain obligations by an execution document with the right that he can free himself from the obligation by the fulfilment of some other action determined in the execution document can fulfil this action until the distrainee satisfies his needs entirely by the forcible fulfilment of the due obligation.

(2) The distrainer has the right to reimbursement of costs of an execution procedure that has been halted because the distrainee, after it has been started, has, instead of the obligation due, fulfilled some other act determined in the execution document.

Confirmation of executability

Article 23

(1) If a proposal for execution is submitted to a court that has not judged about the claim in the first instance, together with the proposal the execution document is submitted, in the original or in a certified copy, on which a confirmation about execution has been placed, or a trustworthy document is submitted.

(2) A court or a body that has judged about the claim in the first instance gives a confirmation about executability.

(3) A confirmation of executability for the issue of which the legally required conditions were not met will be annulled by a ruling of the same court, or body, on proposal or ex officio.

Chapter three

PROPOSING AND DETERMINING EXECUTION

*Real jurisdiction * stvarna*

Article 34

A court as determined by a special law is really* competent to judge about a proposal for execution.

A proposal for execution

Article 35

(1) A proposal for execution has to contain an application for execution which will name the execution or trustworthy document on the basis of which the execution is being sought, the distrainer and the distrainee, the claim the satisfaction of which is being sought, and the means through which execution is to be carried out and, where necessary, the subject in relation to which it has to be carried out. The proposal must also contain other details that are necessary for the carrying out of the execution.

(2) A proposal for execution on the basis of trustworthy documents has to contain:

1. a request that the court orders the distrainee, within a period of eight days, in bills or cheques SPOROVIMA * within a period of three (days) of the day of the service of the ruling, settles the claim together with the costs as determined and

(2) an application for execution as according to Paragraph 1 of this Article.

Withdrawing and restricting a proposal

Article 36

- (1) During the proceeding, an distrainer can, without the consent of the distrainee, withdraw the proposal for execution, in part or as a whole.
- (2) In an event as described by Paragraph 1 of this Article, the court will halt the execution.
- (3) The distrainer can, after withdrawing the proposal, submit a new execution proposal.

An execution ruling

Article 37

- (1) In an execution ruling, the execution or trustworthy document on the basis of which the execution is determined have to be named, as do the distrainer and the distrainee, the claim to be obtained, the means and the subject of execution and other data necessary for the carrying out of the execution.
- (2) Making a ruling about execution on the basis of a trustworthy document, the court will:
 1. order the distrainee, in a period of eight days, and that in bills of exchange and cheques SPOROVIMA in a period of three days from the service of the ruling, settle the claim together with the costs as determined and
 2. determine execution so that these claims shall be met.
- (3) A ruling about execution does not have to be explained and can be issued by placing a stamp on the proposal for execution.
- (4) The ruling about execution has to contain a note about legal recourse.
- (5) The court will not ex officio refuse an application for execution based on a legally effective judgement of a court, a court settlement or a public notary document because these documents have not at the time of judging about the execution procedure attained the character of executability, if they have gained this character subsequently.
- (6) A ruling in which an execution proposal is rejected in part or as a whole has to be explained.

Serving a ruling about execution

Article 38

- (1) A ruling about execution is delivered to the distrainer and the distrainee.
- (2) A ruling that rejects or dismisses a proposal for execution made before the distrainee has had time to make a response about it is served only to the distrainer.
- (3) A ruling about execution on a monetary claim is served to the distrainee's debtor before it becomes legally effective.
- (4) A ruling about execution on monetary funds in the account of the distrainee is served before it becomes legally effective to the unit of the legal person that undertakes payment affairs for the distrainee where these funds are held.
- (5) A ruling about execution on the basis of a trustworthy document is served to the appropriate unit of the legal person that undertakes payment affairs only after it becomes legally effective.

(6) A ruling about execution on moveable subjects is served to the distrainee before the undertaking of the first execution actions, unless otherwise provided for in this Law.

(7) If the court that has made the ruling about execution is not competent to carry out execution, it will direct its ruling about execution to the competent court for the carrying out of the execution.

Chapter four

THE CARRYING OUT OF EXECUTION

Real competence

Article 39

For the implementation of execution, the court is competent that is competent to make a ruling about the execution proposal, unless otherwise provided for by the law.

Execution on the basis of an execution ruling that is not legally effective

Article 40

(1) Execution can be carried out even before the execution ruling becomes legally effective unless this Law provides differently for individual execution actions.

(2) Before the ruling about execution becomes legally effective, the claim cannot be settled forcibly.

(3) Execution determined on the basis of a trustworthy document is carried out only after the ruling about execution becomes legally effective.

The limits of execution

Article 41

Execution is carried out within limits as defined in the execution ruling.

The time of execution

Article 42

(1) Execution can be carried out only during the working week and during the daytime.

(2) But the court can order that execution is carried out outside the working week and at night if there is a reasonable ground for this.

The work of the court distrainer

Article 43

(1) The court distrainer is bound during the search of the distrainee's residence or clothing that he is wearing and during other execution works to proceed with due respect to the person of the distrainee and the members of his household.

(2) Two adult witnesses or a notary public have to be present at execution works in the distrainee's residence when the distrainee himself, his legal representative, proxy or an adult member of his household is not present.

(3) In the premises of a legal person, execution is carried out in such a way that the court distrainer, before the performance of the work of execution, asks a representative of the legal person to be present himself during the performance of the execution or to appoint some other person to be present. If the representative of the legal person refuses to behave in line with the request of the court distrainer or if the court distrainer does not find him in the premises of the legal person during the undertaking of the work of execution, the work will be carried out in the presence of two adult witnesses.

(4) If the work of execution has to be carried out in a room, which is locked, and the distrainee or his representative is not present, or will not open the premises, the court distrainer will open the premises in the presence of two adult witnesses or a notary public.

(5) The court distrainer will make up special minutes concerning the performance of execution works as defined in the provisions of Paragraphs 2 to 4 of this Article, which will be signed by the invited witnesses or the notary public.

Hindering the court distrainer in his work

Article 44

(1) The court distrainer is authorised to remove persons who hinder the carrying out of execution, and will according to the circumstances seek the help of the police. The police are bound to behave in line with the order of the court distrainer. The court executor can, when needed, order the use of force against a person who hinders the execution.

(2) When the police are involved with the order of the court distrainer, the regulations about internal affairs are applied in an appropriate manner.

(3) The court can, for the carrying out of execution, seek the assistance of the judicial police in a way and a procedure prescribed by a special law.

(4) The court can sentence a person who hinders the carrying out of execution according to the measures prescribed in Article 16 of this Law.

Irregularities during the implementation of execution

Article 45

(1) A party or a participant can by a submission request the court to have the irregularities done by the court distrainer during the implementation of execution removed.

(2) The court can by a decision stop any unlawful or irregular works done by a court distrainer.

Chapter Five

LEGAL REDRESS AVAILABLE TO THE DISTRAINER AND THE DISTRAINEE AGAINST A RULING ABOUT EXECUTION

1. Legal redress against an execution ruling on the basis of a document of execution

An appeal

Article 46

(1) An distrainee can make an appeal against an execution ruling, unless otherwise provided for in

this Law.

(2) An distrainee can make an appeal especially:

1. if the document on the basis of which the execution ruling has been made is not an execution document,
2. if the document of execution has not acquired the quality of executability,
3. if the execution document on the basis of which the execution ruling has been made has been annulled, abolished, altered or in some other way made invalid, or if it has in some other way lost its effectiveness or it has been determined to be without effect,
4. if the parties have through a public document or a legally authenticated document drawn up after the execution document has come into being agreed that the distrainer will not, on the basis of the document of execution, either permanently or for some given period of time, seek execution,
5. if the period in which according to the law execution can be required has expired,
6. if execution is ordered on a subject that is exempt from execution, or on which the possibility of execution is limited,
7. if the distrainer is not authorised to seek execution on the basis of an execution document, that is if he is not authorised on the basis of it to seek for execution against the distrainee,
8. if some condition determined in the execution document has not been fulfilled, unless prescribed differently by the law,
9. if the claim has ceased on the basis of a fact that came into being at a time when the distrainee could no longer successfully make it clear in the procedure from which the decision derived, or if the claim ceased on the grounds of a fact that came into being after the court or administrative settlement was arrived at or after the notary public document was drawn up,
10. if on the grounds of a fact that arose at a time when the distrainee could no longer state it in the proceeding from which the decision derived, or if on the grounds of a fact that arose after a court or an administrative settlement was arrived at or after a public notary document was drawn up, the fulfilment of the claim was permanently or for a given time, postponed, forbidden, changed or in some other way rendered impossible,
11. if the claim decided about in the execution document has passed under the statute of limitations.

(3) In connection with an appeal as defined by Paragraph 2 of this Article, the court must pay attention ex officio to:

1. the reasons as defined by Paragraph 2 Points 1, 3 and 5 of this Article,
2. the circumstance that in an event as declined by Paragraph 2 Point 6 of this Article execution is ordered on subjects as defined by Article 3 Paragraphs 4 and 5 of this Law,
3. the circumstance that in events as defined by Paragraph 2 Point 10 of this Article fulfilment of the claim is forbidden.

(4) The distrainer can make an appeal overturning an execution ruling if his request has been exceeded or because of a decision about the costs of the proceeding.

Judging about an appeal

Article 47

- (1) In connection with an appeal against an execution ruling a court of the first instance is authorised to accept the appeal if it judges it is grounded and, in whole or in part, to alter the execution ruling that has been made and reject the execution request, or to annul the execution ruling and reject the proposal for execution or to declare itself incompetent and send the case to a competent court, unless otherwise provided for by this Law. In this event the case of the first instance will stop the work carried out.
- (2) If it judges the appeal not to be grounded, the first instance court will send the case to the second instance court.
- (3) In order to allow a check on the groundedness of the statements of the appeal the court of the first instance can, where necessary, hear the parties and the other participants and carry out other investigations.
- (4) A ruling as defined by Paragraph 1 of this Article an appeal is permitted about which the court of the first instance has no authority from this provision.

Direction to a civil case because of an appeal

Article 48

- (1) If an appeal is made because of any of the reasons adduced in Article 46 Paragraph 2 Points 7 to 11 of this Law, the first instance court will serve the distrainer with a copy of the appeal for him to respond to it within a period of eight days. If the distrainer disputes the groundedness of the reasons (*sic*), or if he does not make a response in eight days, the court of the first instance will accept the appeal if the distrainee proves that they are grounded by a public, authenticated private or other document that has the significance of a public document. Otherwise, the first instance court will make a special finding that will direct the distrainee to a litigation to have the execution declared inadmissible.
- (2) If the appeal is made for other reasons from Article 46 Paragraph 2 of this Law, the first instance court, if it should consider that the appeal because of these reasons is not justified, will send a copy of the file, without delay, to the second instance court for judgement about the appeal because of these other reasons.
- (3) If the distrainee makes an appeal against a ruling directing him to a litigation, the first instance court will send this appeal to the court of the second instance for joint judgement about this appeal and about the appeal against the execution judgement.

An appeal after the time limit

Article 49

- (1) For any of the reasons given in Article 46 Paragraph 2 Points 7 to 11 of this Law an distrainee can submit an appeal against the execution ruling even after it becomes legally effective, on condition that he could not, for good reasons, state this reason in the appeal against the ruling.
- (2) An appeal as defined by Paragraph 1 of this Article can be submitted right up to the end of the execution proceeding.

(3) The distrainee is bound in an appeal as described by Paragraph 1 of this Article to state all the reasons because of which he could [not?] state this reason at the time it was submitted. The court will reject an appeal submitted later if it is based on reasons that the distrainee could have stated in an appeal submitted earlier.

(4) The submission of an appeal as defined by Paragraph 1 of this Article does not stop the implementation of execution or the distrainer from satisfying his claim, unless otherwise provided for in this Law.

Response to an appeal

Article 50

An appeal as described in Article 49 of this Law will be served without delay on the distrainer, who can make a response to it within a period of eight days.

A ruling on an appeal

Article 51

(1) When it receives a response to an appeal, or when the time for a response has passed, the court will, according to the circumstances of the case, set a hearing for the discussion of the appeal or will make a ruling without setting a hearing, except in an event as defined by Article 52 of this Law.

(2) In ruling on an appeal the court will dismiss, reject or accept the appeal, except in a case as defined by Article 52 of this Law. If it accepts the appeal, the first instance court will halt the execution and undo any action that has been carried out.

(3) The well-foundedness of an appeal is judged with respect to the state of affairs at the time the appeal is being judged on.

Direction to litigation or other proceeding because of an appeal

Article 52

(1) If a ruling on an appeal as defined by Article 49 Paragraph 1 of this Law depends on the ascertainment of some contended fact, the court will direct the distrainee to start litigation within a period of fifteen days, or some other procedure, in order to have the execution declared impermissible, unless the distrainee proves the justifiableness of his appeal with some public, authenticated private or other document that has the significance of a public document.

(2) If the distrainee shows the justifiability of his appeal with a public, authenticated private or other document that has the significance of a public document, the court will decide on the well-foundedness of the appeal in the execution proceedings. If it accepts the appeal, it will proceed according to the provisions of Article 51 of this Law, and if it does not accept it, it will direct the distrainee to litigation.

(3) The distrainee can start a suit or other proceedings as defined by Paragraph 1 of this Article even after the expiry of the period set by the court, right up to the end of the proceeding, but in this event will have to bear the costs brought about by the period being extended.

(4) The distrainee is bound to state all the grounds for an appeal that he could state in a given suit in that suit.

(5) If the distrainee does not act in accord with the provision of Paragraph 4 of this Article, the court will dismiss a suit in, which will state the reasons that the distrainee could have stated in the preceding suit. ?? sic

(6) If it is ascertained by a legally effective verdict that execution is not permissible, the court will, at the proposal of the distrainee, stop the execution and annul the works carried out.

(7) If execution on the basis of an execution ruling against which an appeal as defined by Article 49 Paragraph 1 of this Law has been made is carried out before the first instance proceeding in the suit to which the distrainee has been directed is finished, the distrainee can, up to the conclusion of this proceeding, without the consent of the distrainer as the defendant, reformulate the suit so as to ask the court to find against the distrainer and make him return what he has gained by the execution and compensate him for the damage that he has suffered because of it, including the costs of the execution in which the distrainer has obtained his claim.

(8) The distrainee can make good his rights to compensation for damage suffered because an impermissible execution has been carried out against him in a separate suit.

2. Legal remedies against an execution ruling on the basis of a trustworthy document

An objection against an execution ruling on the basis of a trustworthy document

Article 53

(1) A distrainee can make an objection to an execution ruling on the basis of a trustworthy document within a period of eight days, and in suits about cheques and bills of exchange in a period of three days, unless he is only objecting to the decision about the costs of a proceedings. For reasons because of which, according to the provisions of Article 46 of this Law, an execution ruling can be rebutted by an appeal, a distrainee can rebut an execution ruling on the basis of a trustworthy document in the part by which ** execution only by an objection.

(2) An objection that is made for the reasons mentioned in Article 49 Paragraph 1 of this Law can be made by the distrainee against the part of the execution ruling on the basis of a trustworthy document by which a judgement about execution was made, if this objection is based on a fact that arose after the execution ruling was made.

(3) The provisions of Articles 49 to 52 of this Law are applied in an appropriate way to an appeal made after the expiry of the period for appeals.

The procedure consequent upon an objection to an execution ruling on the basis of a trustworthy document

Article 54

(1) If the distrainee has not, in the objection to the execution ruling made on the basis of a trustworthy document, defined which part of the ruling he is rebutting, it will be considered that he is rebutting the ruling as a whole.

(2) If the execution ruling is rebutted as a whole or only in the part in which the distrainee is ordered to meet the claim, the court to which the objection is made will revoke the execution ruling in the part by which execution is ordered and will cancel any actions taken, and the proceeding will continue as in the case of an objection to a payment order, and if it does not have territorial jurisdiction it will send the case to the competent court.

(3) If the execution ruling is rebutted only in the part by which execution is ordered, the subsequent proceeding will go on as if it were a proceeding on an appeal against an execution ruling on the basis of an execution document.

(4) If the objection as defined by Paragraph 3 of this Article is accepted, the part of the execution ruling by which the distrainee is ordered to satisfy the claim will have the quality of an execution document on the basis of which execution can be sought again.

(5) An objection against an execution ruling has to be explained.

(6) If the distrainee does not make an objection against the part of the execution ruling in which he is ordered to satisfy the claim, he can seek a repetition of the proceedings against this part of the ruling according to the regulations for civil law proceedings.

(7) If the court to whom the proposal defined in Paragraph 6 of this Article is made is not competent to adjudicate according to the rules of civil law proceedings, it will defer the case to a competent court for adjudication on the proposal.

Chapter Six

A THIRD PARTY OBJECTION

*Presumptions for an objection (predmnijeve)**

Article 55

(1) A person who claims that with respect to the subjects of execution he has rights such as to prevent execution can make an objection against execution, seeking to have execution on this subject declared impermissible.

(2) An objection can be made up to the end of the execution proceeding. Making an objection does not prevent the execution being carried out, or the distrainor obtaining his claim, unless otherwise provided for by this Law.

(3) The court will serve the distrainor and the distrainee with the objection and summon them to make a response to the objection within a period of eight days.

Direction to litigation

Article 56

(1) If the distrainor does not make a response to the objection within the prescribed period or if he opposes the objection, the court will direct the maker of the objection to start litigation within a period of fifteen days to have execution on the subject of execution declared impermissible, unless the person making the objection can show the justifiability of his objection with a legally effective verdict, a public document or a private document that has the significance of a public document.

(2) If the person making the objection can prove its justifiability with a legally effective judgement, a public document or a private document with the significance of a public document, the court will adjudicate on the objection in the execution proceedings.

(3) The person making the objection can start off a suit even after the expiry of the period the court has given him, right up to the ending of the execution proceeding, but in this case he is bound to bear the costs caused by the period being extended.

(4) In a suit as defined by Paragraph 1 of this Article a third person can ask to have the existence of his right ascertained if any of the parties dispute it.

When it is not possible to have execution pronounced impermissible

Article 57

(1) Exceptionally to the provision of Article 55 Paragraph 1 of this Law, a person who is the co-owner of movable property that is the subject of execution can not demand that execution with respect to his or her part be declared impermissible, but the person does have the right to be paid from the sum of money obtained from the sale of the things before the distrainor and other persons who are paid in the execution procedure are paid, and before the payment of the costs of the execution proceeding.

(2) A person as defined by Paragraph 1 of this Article has the right to demand that a thing that is the subject of execution be made over to him or her if he puts down an amount equivalent to the value of the distrainor's share in this thing.

(3) The court will direct any person whose share in a thing that is the subject of execution is disputed to start a suit against the distrainor, and also against the distrainee if he disputes the person's right, in order to prove his right, unless he can in the execution proceeding prove this right via some legally effective judgement, or public document or a private document that has the significance of a public document.

(4) If a person as defined by Paragraph 1 of this Article can prove his right via a legally effective judgement, a public or private document with the significance of a public document, the court will proceed as if the person's right were not disputed.

(5) The fact that the court in the execution procedure has found the right of the person as defined by Paragraph 1 of this Article not to be disputed in the sense of the provisions of Paragraphs 3 and 4 of this Law has no effect on the right of the distrainor or distrainee to make good their rights against this person in a separate suit.

Chapter Seven

COUNTER EXECUTION

The reasons for counter-execution

Article 58

(1) After execution has been carried out, the distrainee can in the same execution proceeding ask the court to order the distrainor to return to him what he has obtained via the execution:

1. if the execution document has been legally effectively abolished, altered, nullified, revoked or if in some other way it has been determined to be without effect,
2. if during the execution procedure he has paid the distrainor outside the court, the distrainor thus being doubly paid.

(2) A proposal as defined by Paragraph 1 of this Article will not be accepted by the court if with respect to what the distrainor has obtained by execution such changes of a real or legal nature have taken place that return is no longer possible.

- (3) If the distrainer has by the execution collected a given monetary sum, the distrainee can in the proposal for counter-execution seek payment of the legal penalty interest from the day of the collection of the sum.
- (4) Compensation for damages on account of a reason as defined in Paragraph 1 of this Article can be obtained by the distrainee in a separate suit.
- (5) A proposal for counter-execution as defined by Paragraph 1 of this Article can be made within a period of three months from the day the distrainee found out about the reason for counter-execution, and at the latest within a period of one year from the day of the completion of the execution procedure.
- (6) A distrainee may not, before the expiry of the period as stated in Paragraph 5 of this Article, satisfy his claim in litigation except in a case as defined by Paragraph 2 of this Article.
- (7) If the execution procedure is started ex officio, counter-execution is not permitted, but the distrainee has to try to satisfy his right in an separate suit.

The procedure relating to a counter-execution proposal

Article 59

- (1) A proposal as defined by Article 58 of this Law will served on the distrainer by the court and he will be called upon to make some response to it within a period of eight days.
- (2) If in the period defined by Paragraph 1 of this Article the distrainer opposes the proposal, the court will adjudicate upon it after a hearing has been held. If the distrainer does not respond to the proposal, the court will decide whether to adjudicate on it without holding a hearing.
- (3) By a ruling accepting the proposal the court will order the distrainer to return what he has gained by the execution to the distrainee.

A counter-execution ruling

Article 60

- (1) On the basis of a legally effective and execution ruling by which the distrainer is order to return to the distrainee what he has gained by the execution the court will, at the proposal of the distrainee, make a ruling ordering the counter-execution.
- (2) Counter-execution is carried out according to the provisions of this Law of Execution.

Chapter Eight

POSTPONEMENT, DISCONTINUANCE AND CLOSURE OF EXECUTION

1. Postponement of execution

Postponement of execution at the proposal of the distrainee

Article 61

- (1) At the proposal of the distrainee the court will, if the distrainee gives it good ground for supposing that he would suffer irreparable or nearly irreparable damage by the implementation of the execution, postpone the execution in part or as a whole if an application for the protection of

legality has been made against a legally effective ruling made in the execution procedure.

(2) At the proposal of the distrainee the court will, if the distrainee gives it good ground for supposing that he would suffer irreparable or nearly irreparable damage by the implementation of the execution, postpone the execution in part or as a whole especially:

1. if a legal remedy has been resorted to against the decision on the basis of which the execution has been determined,

2. if a proposal has been submitted for a return to the previous state of affairs in the procedure in which the decision was made on the basis of which execution was ordered,

3. if a suit has been filed for the overturning of the verdict of the chosen court on the basis of which the execution was ordered,

4. if a suit has been filed to have the settlement on the basis of which the execution was ordered revoked, or a suit for the ascertainment of its nullity,

5. if the distrainee has made an appeal or an objection against the execution ruling, or if he has filed a suit against it,

6. if the distrainee has made an appeal against a ruling which has confirmed the executability of the execution document, or if he has made a proposal for the repetition of the proceeding in which this ruling was made,

7. if the distrainee or a participant in the proceedings has requested the obviating of certain irregularities committed during the implementation of the execution,

8. if the execution, according to the contents of the execution document, depends on the simultaneous fulfilment of some obligation of the distrainer, and the distrainee has not fulfilled his obligations because the distrainer has not fulfilled his obligation or shown any willingness to do so simultaneously,

(3) A judgement about a proposal for a postponement will be made by the court after the distrainer has been allowed time to respond to it, unless it is a matter of reasons as found in Paragraph 1 of this Article or unless the circumstances of the case require proceeding differently.

(4) In a case as defined by Paragraph 2 of this Article the court can, at the request of the distrainer, make postponement of the execution conditional upon the provision of suitable security.

(5) If the distrainee does not provide this security in the time given him, which may not be longer than 15 days, it will be considered that he has withdrawn the proposal for postponement.

(6) During the time of the postponement of execution the actions by which it is carried out will not be undertaken.

(7) In execution on account of collection of monetary claims even after the ruling about the postponement of execution has been made the actions on the basis of which the distrainer can obtain a lien or the right to satisfaction on the subject of the execution will be undertaken. At the proposal of the distrainer, valuation of the subjects of the execution will also be carried out.

(8) If it rejects a proposal for the postponement of execution, the court will continue with the execution even before the ruling rejecting the proposal becomes legally effective.

Postponement of execution at the proposal of the distrainer

Article 62

- (1) At the proposal of the distrainer, the court will, in part of as a whole, postpone the execution if the implementation of the execution has not begun.
- (2) If the implementation of the execution has already begun, and the distrainee has, within the period given him by the court, responded against the postponement, the court will reject the proposal for postponement.
- (3) If it is envisaged by the law that execution must be sought in a certain period of time, the distrainer can make a proposal for postponement in this period.

Postponement at the proposal of a third party (person)

Article 63

- (1) At the application of a person who has sought to have the execution on a certain subject pronounced impermissible the court will postpone execution with respect to this subject if this person gives it good ground for supposing that he would suffer irreparable or nearly irreparable damage by the implementation of the execution.
- (2) In a case as described in Paragraph 1 of this Article the court can, at the proposal of the distrainer, make the postponement of execution conditional upon the provision of some security.
- (3) The provision of Article 61 Paragraph 5 of this Law will be applied in an appropriate way in a case as defined by this article.

Providing security instead of postponing execution

Article 64

The court will reject a proposal for postponement if the distrainer, in the amount fixed by the court, provides security for the damage that the distrainee or the third party might suffer because of the implementation of the execution.

The time for which the execution is postponed.

Article 65

- (1) If the execution is postponed because the distrainee or the third party have sought legal remedy, or exceptional legal means, the postponement will last until the end of the proceeding occasioned by this remedy, or means.
- (2) In other cases in which the distrainee has proposed postponement the court will, according to the circumstances of the case, determine the time for which the execution is postponed.
- (3) When the distrainer proposes postponement, the court will postpone the execution for the time he proposes.

The continuation of a postponed proceeding

Article 66

- (1) Postponed execution will continue ex officio after the elapse of the time for which it was

ordered.

(2) At the proposal of the distrainer, the court can continue with the execution even before the elapse of the time for which it was ordered if the distrainer can provide good grounds for supposing that the reasons for the postponement have disappeared or if he provides security.

2. Discontinuance and closure of execution

Discontinuance of execution

Article 67

(1) Unless otherwise provided for by this Law, execution will be discontinued ex officio if the execution document has been legally effectively abolished, altered, nullified, revoked or in some other way determined to be without effect, or if the confirmation of execution is cancelled.

(2) Execution will be discontinued if it has become impossible or if for some other reasons it cannot be carried out.

(3) Execution will be discontinued at the proposal of the distrainee if the court ascertains that after the expiry of the period allowed for appeal items that were not defined in the execution ruling were included in the implementation of the execution, items that were excepted from the execution or the possibilities of execution on them being restricted.

(4) The period for an objection because of grounds as defined in Paragraph 3 of this Article is eight days and starts from the day when the distrainee found out that some item exempt from the execution, or upon which the possibilities of execution are restricted, was included in the implementation of the execution.

(5) A ruling about discontinuance of execution will cancel all the execution works carried out unless by so doing the rights of third parties (persons) are encroached upon.

Closure of execution

Article 68

(1) An execution procedure will be considered closed with the legal effectiveness of the judgement to dismiss or reject the proposal for execution, the carrying out of the work of execution through which the execution is completed, or the discontinuance of the execution.

(2) If the execution is closed by the carrying out of the work by which it is concluded, the court will ascertain this by a special ruling.

Part Two

EXECUTION FOR THE SAKE OF THE COLLECTION OF MONETARY CLAIMS

Chapter Nine

GENERAL PROVISIONS

The scope of execution of monetary claims

Article 69

Execution for the fulfilment of a monetary claim is determined and carried out to the extent

necessary for the settling of this claim.

Protection of the distrainee's physical person

Article 70

- (1) Execution for the fulfilment of a monetary claim cannot be carried on things and rights that are necessary for the satisfaction of the basic vital needs of the distrainee and the persons he is bound by law to support or for the performance of the self employed job that is the distrainee's main source of earnings.
- (2) The provisions of Paragraph 1 of this Article will not be applied in cases in which in this Law special rules about exemption from execution or restriction of execution have been laid down to do with execution on certain things and rights.
- (3) Residential property or business property are not considered things that are necessary for the satisfaction of the basic vital necessities of the distrainee and he persons whom he is by law required to support or for the performance of the self employed job that is his main way of earning a living, unless the law provides for differently.

Protection of the business of legal persons

Article 71

- (1) Execution cannot be carried out on things and rights of legal persons in order to obtain some monetary claim if these things and rights are necessary for their business to be carried on.
- (2) The provisions of Paragraph 1 of this article will not be applied in cases in which in this Law with respect to execution on certain things or rights, special rules have been laid down about the determination of the timetable of the execution and the exemption of things from execution and restrictions on execution.

Protection of the distrainer

Article 72

- (1) If on the basis of some legal business with the distrainee the distrainer has gained some lien or similar right to some thing or right for the purpose of the security of his claim the enforced satisfaction of which he is seeking on this item, the distrainee cannot oppose this execution by appealing to grounds as stated in Article 70 Paragraph 1 of this Law and Article 71 Paragraph 1 of this Law and on other provisions of this Law about the exemption of things from execution or the restriction upon execution, except to the provisions of Article 4 Paragraphs 4, 5 and 6 of this Law.
- (2) The distrainee cannot oppose execution on some thing or right by appealing to the provisions of Article 70 Paragraph 1 and Article 71 Paragraph 1 of this Law and to other provisions of this Law about exemption from execution and restriction of execution, if he has gained this thing or right from the distrainer, who by starting this procedure is seeking the satisfaction of his claim that arose in connection with this acquisition.

The order for the payment of several distrainers

Article 73

Several distrainers who are satisfying their monetary claims on the same distrainee and on the same

subject of execution are satisfied in the same order in which they obtained the right to be paid from this subject, unless the law makes a different provision.

Chapter Ten

EXECUTION ON REAL ESTATE

1. General provisions

Jurisdiction (Competence)

Article 74

For adjudication upon a proposal for execution on real estate and for the carrying out of this execution the court on whose area the real estate lies has the territorial jurisdiction.

Execution works

Article 75

Execution on real estate is carried out by the annotation of the execution in the land register, the ascertainment of the value of the real estate, the sale of the real estate, the satisfaction of the distrainer from the sum obtained from the sale.

Real estate as a subject of execution

Article 76

- (1) If nothing else has been determined, the subject of execution can be only real estate as a whole determined by the rules that govern ownership and other real rights and the land registers.
- (2) If with respect to some real estate there is joint ownership (the ideal jointly owned part of the residence) this part of the ownership can be an independent subject of execution with respect to which the rules of this Law about execution on real estate can be applied in a suitable manner.
- (3) If on some real estate there is the right to build, this right, when a building has been built on the real estate, can be an independent subject of execution with respect to which the rules of this Law about execution on real estate owned by the distrainee can be applied in an appropriate way.
- (4) If with respect to some piece of real estate or an ideal part of it there is the right of usufruct, this can be an independent subject of execution with the proviso that the distrainee (sic) can satisfy his claim from the fruits that this right gives on the basis of some legal relationship (rent, lease), with respect to which the rules of this Law with respect to execution on rights will be applied in an appropriate way.

Proof of ownership and the right to build

Article 78

- (1) Alongside a proposal for execution on some real estate the distrainer is bound to submit an extract from the land register as a proof of the fact that the piece of real estate is entered in it as the property of the distrainee.
- (2) If the right to the piece of real estate as defined by Paragraph 1 of this Article is entered in the land register as [being the property of] another person, and not of the distrainee, the proposal can be

granted only if the distrainer submits a document that is suitable for the entry of the distrainee's right.

(3) If the piece of real estate is not entered in the land register then the provisions of Article 125 of this Law will be applied in an appropriate way.

Change of the subject of execution

Article 78

(1) The distrainee can, in a period of eight days from the day of the service of the execution ruling propose that this execution should be ordered for another subject of execution. Along with this proposal the distrainee is bound to submit proof of his right to another subject of execution on the basis of which it will be possible to order execution against the distrainee on this subject.

(2) The court will serve the proposal on the distrainer, who will have to make a response to this within a period of eight days of the day of being served. In this period the distrainer can make a request for the reimbursement of costs on the procedure of execution on the real estate that has been started and may require the provision of security for the compensation of the damage that he might suffer because of the change in the subject of the execution.

(3) After the distrainer has made a response or after the expiry of the time for responding to the proposal the court will make a ruling about the proposal.

(4) The court may accept the proposal if the distrainee has given good grounds for supposing:

1. that the execution on the real estate on which it is proposed would be particularly unfavourable to him,
2. that for good reasons he himself could not liquidate the subject that he proposes as a new subject of execution and thus with the funds obtained satisfy the distrainer, and
3. that the claim of the distrainer could be satisfied in its entirety from the second proposed subject of execution.

(5) The court will not accept a proposal for a change of subject of execution if it esteems that because of this the execution would take much longer or be more difficult, or if the distrainer would have to suffer considerable damage because of this.

(6) If the distrainer has, before the starting of the execution procedure, obtained a mortgage on the piece of real estate on which he is seeking execution, without his consent execution cannot be ordered on a second subject of execution.-

(7) If the distrainee proposes, as a second means of execution, execution on his pay, pension, disability pension or some other regular source of income, the court can accept this proposal on condition that the distrainee gives it good grounds for supposing that the claim can be satisfied within a period of one year from the date on which a ruling is issued about his proposal. In an event as defined by this Paragraph, the conditions defined in Paragraph 4 Point 1 and Paragraph 6 of this Article have to be fulfilled.

(8) If the distrainer has sought this, the court will make the acceptance of the proposal of the distrainee conditional on the provision of some security that the costs incurred by the distrainer in the execution procedure that has been started right down to the time that the ruling about the change

of subject of execution has been made will be paid in their entirety and the provision of security for the compensation of damage that the distrainer might suffer because of the change of the subject of the execution. The court will decide about the amount of the security and the period in which it has to be given in the ruling about the change of the subject of execution. If the distrainee does not provide security in the period ordered by the court, it will be considered that he has withdrawn from the proposal to change the subject of execution.

(9) In the ruling about the change of the subject of the execution the court will order execution on the other proposed subject of execution.

(10) No appeal is allowed against a ruling that rejects the proposal of the distrainee for a change of subject of execution.

(11) If another subject of execution is determined, the annotation of the execution on the real estate will be in force for as long as the claim of the distrainer still has not been met.

Annotation of execution

Article 79

(1) As soon as it makes an execution ruling, the court will ex officio request the entry of an annotation about execution in the land register.

(2) By this annotation the distrainer acquires the right to settle his claim from the real estate (the right to be paid) even in the event that some third party later acquires the ownership of this piece of real estate.

(3) After the annotation of execution no entry is permitted about change of rights of ownership based on the RASPOLO@BI of the distrainee, irrespective of when this Raspolo`ba was undertaken. *

(4) Change of ownership during the execution procedure does not stop this procedure from being continued against the new owner who is now the distrainee. All actions started before this remain in force and the new owner may not undertake those actions in the procedure that the previous owner also would not have been able to undertake even if there had not been a change of ownership.

(5) At the proposal of the distrainer the court will make a ruling continuing the execution proceeding against the new owner who will be the distrainee in this proceeding. The new owner has not right to appeal against this ruling.

(6) The distrainer who has proposed the execution, and has not previously obtained a mortgage, acquires with the annotation of the execution the right to be paid from this real estate before a person who later gets a lien on this property or the right to be paid from it.

Joining the execution

Article 80

(1) After the entry of the annotation of execution it is not possible to carry out a separate execution proceeding on this property for the satisfaction of another claim of the same or another distrainer.

(2) The distrainer for whose claim execution on the same property is ordered subsequently will become part of the execution procedure already started.

- (3) It is possible to join in to an execution procedure that has already been started right up to the time when the ruling of the award of the real estate to a purchaser is legally effective.
- (4) The court will inform the distrainer for whose advantage the annotation was done before about a procedure being joined.
- (5) The reasons for which execution is not permitted for the advantage of individual distrainers of several distrainers for whose advantage the execution is being carried out on the same real estate, or the reasons for discontinuing execution with respect to some individual ones of the distrainers have no effect on the implementation of the proceeding for the advantage of the other distrainers.
- (6) If the reason for the postponement of the execution relates to only one of several distrainers, execution will not be postponed, but the court while making the ruling about payment will order a delay in the payment of that distrainer until the procedure insofar as it relates to him continues. The funds meant for the payment of that distrainer will be kept by the court until the procedure is continued. If the procedure is not continued, the funds will be used for the payment of other distrainers, or they will be handed over to the distrainee.

Liens [Mortgages]

Article 81

- (1) In the procedure of execution on real estate, payment is also made to holders of liens who have not proposed execution.
- (2) Liens registered on property stop on the day of the legal effectiveness of the ruling on the award of the property to a purchaser even if the lien holders are not completely paid.
- (3) The purchaser of the property and the lien holder may agree, by the latest at the hearing for the sale, that the lien remains on the real estate even after the legal effectiveness of the award of the real estate, and that the purchaser takes over the distrainee's debt to that creditor in the sum that would fall due to him in the execution proceeding. In this case the purchase price is reduced by the amount of the debt taken over.
- (4) The purchaser and the lien holder can make the agreement referred to in Paragraph 3 of this Article in the form of a judicial settlement in the execution procedure or of a public notary document.

Servitudes, real burdens and building rights

Article 82

- (1) Real servitudes, real burdens and building rights on a piece of real estate do not cease on the sale of the real estate.
- (2) On the sale of the real estate, neither do personal servitudes entered in the land register before the rights for the satisfaction of which the execution is being carried out cease.
- (3) Other personal servitudes and real burdens cease with the legal effectiveness of the ruling of the award of the real estate.
- (4) The provisions of Article 81 Paragraphs 3 and 4 of this Law are applied in an appropriate way to the personal servitudes referred to in Paragraph 3 of this Article.

Contracts about lease and rent

Article 83

- (1) Contracts about the rent or lease of some piece of real estate that are made and entered into the land register before the lien is obtained, or before the right for the satisfaction of which the execution is being sought, do not cease with the sale of the real estate. The purchaser becomes the renter or the lessor from the moment he achieves ownership of the property.
- (2) Contracts about rent or lease that are not entered into the land register before the lien is obtained or before the right for the satisfaction of which the execution is being sought will cease when the ruling of the award of the real estate to the purchaser becomes legally effective.
- (3) Lessees and renters as defined by Paragraph 2 of this Article do not have the right to seek damages in the execution procedure.

Looking over the real estate

Article 48

- (1) When it makes a decision about sale the court will set a time when persons interested in the real estate can look round the real estate and ensure via the distraining officer of the court the unhindered viewing of the real estate.
- (2) On good grounds, the court will give a person interested in purchasing the real estate, at his request, permission to look round the real estate outside the time defined in Paragraph 1 of this Article, if necessary with the participation of the distraining officer of the court. The costs of such extraordinary viewing of the property must be borne by the person.
- (3) If the distrainee or some other persons stop or hinder the viewing of the property, the court will order the distrainee and the other persons to be removed from the property during the viewing time. A removal ruling is carried out by the distraining officer, with the help of the police if necessary.
- (4) The court can hand out measures prescribed by Article 16 of this law to persons as described in Paragraph 3 of this Article.

Security of real estate

Article 85

- (1) In order to prevent damage being done to the property, the valuation of it being prevented, viewing, protection and so on, the court can, at the proposal of the distrainer:
 1. order the distrainee and other persons temporarily or primarily to be kept at a distance from the property,
 2. confide it to the care of the distrainer or a third party,
 3. order other measures necessary for its protection or for the facilitation of the unhindered implementation of execution.
- (2) The court can hand down measures prescribed by Article 16 of this Law to persons who prevent or hinder the implementation of execution.
- (3) The funds necessary for the implementation of measures from Paragraph 1 of this Article, apart

from the funds for detention, have to be advanced by the distrainer.

2. Exemption from execution

Real estate that cannot be the subject of execution

Article 86

(1) The agricultural land and farm buildings of a farmer to the extent necessary for his maintenance and the maintenance of his immediate family and other persons he is bound to support according to the law cannot be the subject of execution.

(2) The provision of Paragraph 1 of this Article is not applied in cases as described by Article 72 of this Law.

3. Determining the value of real estate

The way in which value is determined

Article 87

(1) Immediately after making an execution ruling, the court will at once decided by a conclusion* the way in which the value of the real estate is determined. If necessary, before making this conclusion, the court will hold a hearing with the parties.

(2) Evaluation of the value of the real estate will be done after the execution ruling becomes legally effective, but even before that if the distrainer proposes it, and if he advances the funds necessary for it and declares that he will bear the costs of determining the value if the execution is discontinued.

(3) The value of the property which is the market price on the day of the valuation is determined on the basis of the estimation of experts and other circumstances. During determination of the value of the real estate, care will be paid to the fact of how much less it might be worth because there are on it certain rights even after the sale.

(4) Instead of the manner of evaluation foreseen in Paragraph 3 of this Article, the court can ask for the determination of the value of the property from the appropriate body of the taxation authority.

(5) The court will, at the proposal of a party, which has to be submitted at the latest eight days before the hearing for sale, at the sales hearing once again by a conclusion determine the value of the property if the party gives it good grounds for supposing that this value has changed be more than a third between the time when it was first evaluated and the day of the making of the proposal.

(6) If in some agreement before the court or outside the court on the basis of which some lien has been obtained on the real estate for the purpose of providing security for the claim the satisfaction of which is being sought the parties have determined the value of the property, the value of the property will not be specially determined but the value determined in the agreement will be taken as its value.

(7) In a case as defined by Paragraph 6 of this Article the court can, at the proposal of the distrainee submitted within the period for an appeal against the execution ruling, order the property to be valued once again, if the distrainee gives it good grounds for supposing that after the making of the agreement the value of the real estate has risen by at least one third. The distrainee has to advance funds for the revaluation of the property within a period of eight days from the day on which he is

served with the decision of the court accepting his proposal. If the distrainee does not act in accord with the decision of the court, it will be considered that he has withdrawn his proposal.

(8) The provision of Paragraph 6 of this Article will not be applied if there are lien holders, OVLA[TENIKA PRAVA NA NAMIRENJE or personal servitudes entered in the land register that cease on the sale of the land, who in the execution on the execution on the real estate are paid before the distrainer who sought the execution, unless they agree otherwise.

Article 88

The value of the real estate is determined by the court in the conclusion about a sale.

An objection about lack of cover

Article 89

- (1) Every person who has the right to be paid from the sold real estate, and who in order of priority comes before the distrainer, can propose that the execution be discontinued if the determined value of the real estate does not even partially cover the amount of the claim of the distrainer.
- (2) A proposal for the discontinuance of the execution can be submitted within a period of eight days of the service of the decision about the sale.
- (3) The court will, according to the circumstances of the case, decide whether the sale is useful with respect to the fact that the probable amount of the partial payment that can be made to the distrainer who proposed the execution.
- (4) In the event of a discontinuance of execution as described in Paragraph 1 of this article the costs of the proceeding are borne by the distrainer who started the execution.

The sale of the real estate

Conclusion about sale

Article 90

- (1) After the carrying out of the process to determine the value of the real estate the court will make a conclusion about the sale of the real estate in which it sets the value of the real estate and determines the manner and conditions of sale, the time and the place of sale if the sale is done by auction.
- (2) In the conclusion about the sale there will be special mention of the possibility that the value will be finally settled at the sales hearing.
- (3) The sales conclusion will be exposed on the notice board of the court or published in some other usual way.
- (4) The sales conclusion will be announced, at the proposal of a party, in the public media, if he advances the necessary funds.
- (5) The court can authorise a party to publish information a sales conclusion in the public media, at his own costs, or directly to inform people who deal with real estate agency.
- (6) From the day when the conclusion about sale is placed on the notice board of the court to the day of the sale at least thirty days have to elapse.

(7) A conclusion about sale is served on the parties, the lien holders, the participants in the proceedings, persons who are entered as having the right of first refusal and the competent body of the tax administration.

The right of first refusal

Article 91

(1) A person who has the legal or contractual right of first refusal entered in the land register will be preferred to the best bidder if immediately after the end of the auction he announces that he will buy the real estate on the same conditions.

(2) If the real estate is sold by direct treaty, the court will call the holder of the entered right of first refusal, or the holder of the legal right of first refusal who has previously informed the court of this right, to make clear, in a minute at the court within a given period, his intention of using this right or not.

The manner of sale

Article 92

(1) Sale of property is done by oral public auction.

(2) The hearing for the sale of the real estate is held in the building of the court, unless the court has decided otherwise.

(3) A sales hearing is held before an individual judge, but the court can in the sales conclusion entrust this hearing to a notary public.

(4) Parties, lien holders and holders of personal servitudes and real burdens that cease on the sale of the real estate can, at the latest by the time of the sale of the property at public auction, agree that the sale of the property be done in a certain time by direct treaty via a person authorised to act as an estate agent, a distraining officer of the court, a notary public or in some other way.

(5) A contract about a sale by direct treaty is done in written form. The contract is concluded for and on behalf of the distrainee by a person who has been entrusted with the sale on the basis of a conclusion through which the court has authorised him to make this contract. The signatures of the persons who make the contract have to be certified by a notary public.

(6) A contract as defined by Paragraph 5 of this Article is effective from the day of the legal effectiveness of the ruling about the award.

Conditions of sale

Article 93

(1) The conditions of sale, among other things, contain:

1. a detailed description of the real estate with things appertaining,

2. a note of the rights that cease on the sale,

3. a note of whether the real estate comes with vacant possession, that is whether the distrainee with the members of his family live in the real estate or whether it is leased or rented,

4. the value of the real estate as determined in the sales conclusion,
 5. the price at which the real estate can be sold and who is bound to pay the taxes and fees in connection with the sale,
 6. the period in which the purchaser is bound to put down the purchase price,
 7. the manner of sale,
 8. the amount of security, the period in which it has to be given, whom it has to be given to and how,
 9. special conditions which the purchaser has to meet in order to acquire the real estate,
- (2) The period in which the purchaser is bound to put down the purchase money may not be longer than six months of the day of the sale, irrespective of whether he pays the price at once or in instalments.

Giving security

Article 94

- (1) In a public auction, only persons who have previously given security can take part as purchasers.
- (2) Before sale by direct treaty the purchaser will place the security in a deposit account with the court or a notary public.
- (3) Alongside persons who are according to this Law not bound to give security in the execution proceeding, security also does not have to be given by the distrainer at whose proposal the execution has been ordered and the holder of rights entered in the land register that cease with the sale of the real estate, if their claims meet the amount of the security and if, with respect to their order of priority and the determined value of the real estate, this amount could be paid from the purchase price.
- (4) Bidders whose bid is not accepted will have their security deposits returned to them immediately after the closure of the public auction.

A single bidder

Article 95

- (1) A hearing for the auction will be held even when there is only one bidder taking part.
- (2) The court, or the notary public may, at the proposal of a party or other persons who are being paid in the execution procedure, order, according to the circumstances of the case, that the sales hearing be postponed if only one bidder is taking part.

Who may not be a bidder

Article 96

The distrainee, a judge or other person who officially takes part in the sales procedure may not be a purchaser, and no may a person who by the law may not acquire the property that is the subject of the execution.

The selling price

Article 97

- (1) At the first hearing for an auction the real estate may not be sold at under four fifths of its determined value.
- (2) If the real estate is not sold at the first hearing, the court will set a second hearing at which the property can be sold at a price below four fifths of its value, but not less than half that value.
- (3) From the first to the second hearing at least thirty days have to elapse.
- (4) Parties and persons who are being paid in the procedure can agree, through a declaration given to the minutes at the court before which the execution proceeding is going on or some other court, that the real estate can be sold at a price less than the prices given in Paragraphs 1 and 2 of this article.
- (5) If the parties before starting off the execution proceeding in some agreement made before the court or in the form of a notary public document have agreed that the real estate can be sold for a price lower than the prices given in Paragraphs 1 and 2 of this Article for the purpose of the payment of the claim of the distrainer, the real estate can at the very first hearing be sold for that price if not other persons are taking part in the proceeding who are being paid from it, persons who have entered their right in the land register before in the right of the distrainee by which the collection of his claim is ensured. The lowest price at which the property can be sold in such a case is not less than one third of its determined value.
- (6) The provisions of the previous paragraphs of this Article will be applied in an appropriate way in a case in which the real estate is being sold by direct treaty.

Hearings for auction and award

Article 98

- (1) When he is satisfied that the conditions for the holding of a hearing for an auction, the judge or notary public will announce that an auction is to be held.
- (2) The auction is held after the elapse of ten minutes immediately after the best offer is made.
- (3) After the closure of the auction the judge or the notary public will determine which bidder has offered the highest price and that he satisfies the conditions to be awarded the property.
- (4) The court will make a written ruling (an award ruling) about the award, which is published on the notice board of the court.
- (5) It will be held that the ruling as defined by Paragraph 4 of this Article has been served on all persons who are served with a conclusion about the sale and to all participants of the auction with the elapse of the third day after the day of its being placed on the notice board. These persons have the right to seek that in the records office of the court they should be given directly a copy of the ruling.
- (6) Minutes are kept of a sales hearing.

Award in the event of a sale by direct treaty

Article 99

- (1) In the event of a sale by direct treaty the court will make a ruling about the award of the real

estate sold by direct treaty when it ascertains that the conditions for the validity of the sale have been satisfied.

(2) A ruling of the award is announced on the notice board of the court and served on all persons to whom a conclusion concerning the sale of this real estate to the purchaser is served.

Putting down the purchase price

Article 100

(1) The purchaser is bound to place with the court or the notary public the purchase price in the period defined in the conclusion about the sale.

(2) If the purchaser does not put down the purchase price in the period determined, the court will made a ruling declaring the sale invalid and determine a new sale.

(3) From the security deposited the costs of the new sale will be met and the difference between the purchase price made at the previous and the new sale will be made up.

Transfer of the real estate to the purchaser

Article 101

(1) In the award ruling the court will order that the real estate be transferred to the purchaser after he has put down the purchase money and after the ruling has become legally effective.

(2) After the purchaser has put down the purchase money and the award ruling has become legally effective, the court will order by a conclusion that the real estate be transferred to the purchaser and that his ownership be written into the land register. By the same conclusion the court will order the deletion of those rights that the award ruling ordered would be deleted from the land register.

Protection of the rights of the purchaser

Article 102

Cancellation or alteration of an execution ruling after the award ruling does not affect the right of ownership of the purchaser acquired according to the provisions of Article 101 of this Law.

Discontinuance of execution

Article 103

(1) If the real estate could not be sold even at the second hearing, the court will order a new sale only if the distrainer proposes it.

(2) The proposal for the ordering of a new sale by the distrainer cannot come sooner than three months have elapsed since the day of the second hearing or later than one year after that day.

(3) The court will discontinue the execution if the distrainer does not make a proposal as in Paragraph 2 of this Article or if the real estate could not be sold at the first hearing in the continued proceeding for even a half of the determined value.

(4) In the event of a sale by direct treaty, the court will discontinue execution if the real estate could not be sold in the period determined by agreement of the parties and the persons being paid by the proceeding.

Payment of creditors

When payment is started to be made

Article 104

The court will start to pay creditors after a legally effective ruling of the award of real estate to a purchaser and after the purchaser has paid the purchase price.

Persons who are paid

Article 105

From the purchase price payments are paid to the distrainer at whose proposal the execution was ordered, to lien holders even if they have not registered their claim, persons who have a claim to compensation on the basis of personal servitudes and other rights that cease with the sale, the Republic of Croatia and units of local government and administration on the basis of tax and other fees and persons who have claims as mentioned in Article 106 Paragraph 1 Point 3 of this Law.

Priority of settlement (payment)

Article 106

(1) From the sum of money gained from the sale, the following are paid primarily and in this order:

1. the costs of the execution procedure,
2. taxes and other fees becoming due during the preceding year that are a burden on the real estate sold,
3. claims on the basis of legal maintenance, claims on the basis of compensation for damages arising because of damage to health or reduced or loss of ability to work, claims for compensation of damages for loss of maintenance because of the death of the giver of the maintenance and claims of contributions to health and retirement insurance falling due in the previous twelve months.

(2) Claims as defined in Paragraph 1 points 2 and 3 of this Article are paid if they have been registered at the latest by the hearing for the distribution and if they are proved by an execution document.

(3) The time ordered in Paragraph 1 points 2 and 4 of this Article is calculated until the day on which the real estate award ruling is made.

Paying other claims

Article 107

(1) After the payments of the claims as defined in Article 106 of this Law claims are paid that are secured by liens, the claim of the distrainer at whose proposal the execution was ordered and the compensation for personal servitudes and other rights that cease on the sale.

(2) The provision of Paragraph 1 of this Article is applied appropriately to the payment of sub-lien rights (over-hypotechs?) and other rights that are a burden on the rights that are being paid.

(3) Debtors as defined by Paragraph 1 of this Article are paid in order of acquiring liens and the rights for the payment of the distrainer who proposed the execution or in order of entry into the land

register of personal servitudes, and if the order of priority has been established, then the creditors defined by Paragraph 1 of this Article are paid according to this established order of priority.

(4) Costs and interest for the past three years up to the making of the ruling about the award of the real estate to the purchaser, ordered in the execution order, are paid in the same order as the main claims.

(5) After the claims of Paragraph 1 of this Article have been paid, the claims mentioned in Article 106 Paragraph 1 Points 2 and 3 are paid for the time for which they are not paid according to these provisions, first of all claims from Point 2, and then claims from Point 3.

The amount of the compensation for personal servitudes and other rights that cease on the sale

Article 108

(1) If the amount of the compensation for personal servitudes or other rights that cease on the sale is not reached by the owners of these rights and the creditors who succeed them in the order of payment, the amount of the compensation shall be ordered by the court, taking into consideration particularly the time that these rights still have to run, their value and the age of the bearer of these rights.

(2) The purchaser and the bearer of rights of personal servitude can agree that the purchaser takes over the servitude, and that the amount of the compensation, ascertained according to Paragraph 1 of this Article is deducted from the purchase price.

Proportional payment

Article 109

Several claims that have the same order of payment are paid in proportion to their amount if the amount gained from the sale is not enough for them to be paid completely.

Contest of claims

Article 110

A person who is to be paid from the sale price can, if this has an effect on his payment, by the latest at the hearing for the distribution, contest the claim of another person, the amount and the order of payment.

Direction to litigation

Article 111

(1) The court will direct the person that has contested a claim within a given period of time to start a suit if the decision depends on contested facts, unless he can prove his contestation with a legally effective verdict, a public document or private document that has the significance of a public document. If the person who contests the claim supports his contestation with a legally effective verdict, a public document or a private document that has the significance of a legal document, the court will adjudicate on the contest in the execution proceeding. The court will adjudicate on the contest in the execution proceeding also if the facts on which the making of the decision depend are not contested.

(2) If it accepts the contestation, the court will direct the person whose claim is contested to a suit.

- (3) If the person who has contested the claim gives the court good ground for supposing that there is a reason for the contestation, the court will make a ruling delaying the payment of the person whose claim is contested until the end of the suit. Exceptionally, the court can make a ruling about payment and make the payment of this person conditional on the giving of security.
- (4) The amount that relates to the contested claim will be placed on deposit with the court or a notary public.
- (5) If a person who is directed to a suit does not in the period determined for it prove that he has started a suit, it will be considered that the claim is not contested, or that he has withdrawn the request that his claim be settled in the execution procedure.
- (6) An adjudication made in a suit about a contested claim works against the distrainee and all the creditors.
- (7) The provision of Paragraph 4 of this Article does not affect the right of a person who is directed to a suit to, even after the close of the execution procedure, start a suit against the person whose claim he has contested or against the person who has contested his claim.
- (8) At the proposal of a person whose claim has been contested the court can make the postponement of the making of a ruling about payment and the payment of the claim of this person conditional on the giving of a suitable security for the damage which this person could suffer as a result of the postponement of the payment. If the person who has contested the claim does not give a suitable security in the time which is allowed him, it will be considered that the claim is not contested.
- (9) A person whose claim has been contested has the right to compensation for any damage he has suffered when a claim has been groundlessly contested, if it was done only to harm him or to hinder him in obtaining his rights.

6. Special provisions about the manner of paying certain claims

Claims not due

Article 122

- (1) The claims of a lien holder that have not become due by the day of the making of the ruling about payment for which interest has not been contracted for will be paid after the deduction of the amount equivalent to the legal interest, from the day the ruling about payment is made to the day when this claim does become due.
- (2) Claims that have not become due for which interest has been contracted will be paid together with the amount of the contractual interest calculated up to the day when the ruling about payment is made.

A claim for occasional receipts that has not become due

Article 113

- (1) Claims for occasional receipts on the basis of legal maintenance, on the basis of compensation for damage because of damage to health or reduced or loss ability to work and on the basis of compensation for damage for loss maintenance because of the death of the giver of maintenance, which are secured by a lien, and mature after the day of the making of the ruling about payment, are paid at the express request of the creditor.

(2) Claims as defined by Paragraph 1 of this Article are calculated in the same way in which claims for personal servitudes are calculated.

Claims on condition

Article 114

(1) The amount of a conditional claim which is secured by a lien will be singled out and placed in escrow with a court or a notary public and paid when the delaying*odgodni condition is fulfilled or when it is certain that the raskidni*severing condition will not be met.

(2) If the delaying condition is not fulfilled or if the severing condition is fulfilled, the amount singled out from the purchase price will serve for the payment of creditors whose claims were not entirely or at all paid, and if there are no such claims or if the whole amount is not exhausted by them being paid then this amount or the remains of it will be given to the distrainee.

Prenotation of lien and notation of a dispute

Article 115

(1) If the prenotation of a lien is entered in the land register, and the person in whose favour the prenotation is entered proves that a procedure for its justification is in progress, or that the time for the starting of this procedure has not passed, the claim to which the prenotation relates is paid in the same way in which a claim with a delaying condition is paid.

(2) A claim for which a notation of a dispute for the purpose of expunging the lien is entered in the land register or the annotation of another dispute is paid in the same way as a claim with a severing condition raskidni* is paid.

Joint hypothecs

Article 116

A claim secured with a joint hypothec [mortgage] the creditor of which has demanded payment from some piece of property thus burdened is paid according to the provisions of this law, if the law of land registers does not order anything else to do with joint hypothecs.

7. A hearing for distribution, ruling about payment and the deletion of rights and burdens

A hearing for distribution

Article 117

(1) After the ruling about the award of the real estate to the purchaser, the court orders a hearing for the distribution of the purchase money.

(2) As well as parties, persons who according to the state of the file and the data in the land register have a right to be paid from this amount are also invited to the hearing.

(3) In the invitation these people will be warned that the claim of a creditor that does not come to the hearing will be taken to be as can be seen from the land register and the file and that they can contest some other person's claim, the amount of it, and the order of payment, at the latest by the hearing for the distribution.

(4) At the hearing there is a discussion of the payment of the creditors and other persons who make

a request to be paid.

A ruling about payment

Article 118

- (1) The court will adjudicate via a ruling about the payment of the distrainer and other persons who have the right to be paid after the hearing has been held, taking into account data from the file and the land register and what is ascertained at the hearing.
- (2) While the ruling in Paragraph 1 is being made only those claims will be taken into consideration for which the execution ruling has become legally effective at the latest on the day of the hearing for the distribution.
- (3) If there is a claim with respect to which the execution ruling has not become legally effective at the latest on the day of the distribution hearing, this claim will be paid, after the execution ruling becomes legally effective, from the amount left over of the purchase money, if there is any, and the rest will be returned to the distrainee.
- (4) An appeal against a payment ruling postpones execution of the ruling if a ruling by which the appeal is accepted might have an affect on the payment.

Expunging rights and burdens

Article 119

- (1) After an award ruling becomes legally effective the court will make a ruling ordering that the rights and burdens entered in the land register be expunged except for those that remain on the real estate even after the transfer of the real estate to the purchaser or which the purchaser has taken on.
- (2) The purchaser may by a suit seek the expunging of liens whose expunging the court overlooked to order in the sense understood by the Provision of Paragraph 1 of this Article. The suit can be submitted in the period prescribed by the rules of land register law.

8. The legal position of the distrainee and third persons after the sale of the real estate

Loss of right to the possession of the real estate

Article 120

On the sale of the real estate, the distrainee loses the right of possession of the real estate and is bound to give it to the purchaser immediately after being served with the ruling about the transfer of the real estate to the purchaser, if not otherwise provided for by the law or by agreement with the purchaser.

Eviction of the distrainee

Article 121

- (1) The distrainer can in the proposal for execution by sale of the real estate, and later right up to the transfer of the real estate to the purchaser, seek its vacating and the transfer to the purchaser on the basis of the conclusion about the transfer of the real estate to the purchaser.
- (2) In a case as defined by Paragraph 1 of this Article the court will make an execution ruling ordering the vacating of the real estate and its transfer to the purchaser after the ruling about the

transfer to the purchaser becomes legally effective.

(3) After the conclusion about the transfer of the real estate to the purchaser is made, the court will, at the proposal of the purchaser, start execution for the purpose of vacating and transferring the real estate to the purchaser.

(4) Execution as defined by Paragraph 3 of this Article is carried out according to the rules of this Law about execution by vacating and transfer of real estate.

(5) In the execution procedure defined by Paragraph 4 of this article the purchaser has the position of distrainee by submitting the proposal as defined by Paragraph 3 of this Article.

The rights of a distrainee being evicted

Article 122

(1) The distrainee and the members of his family who are being evicted have the right to emergency accommodation only if this is determined by a special regulation.

(2) The organisation of emergency accommodation as defined by Paragraph 1 of this Article does not prevent the implementation of the execution.

Eviction of those leasing and renting real estate

Article 123

(1) After a conclusion is made about transferring the real estate to the purchaser the court will, at the proposal of the purchaser, order a person renting or leasing the property to hand it over to the purchaser in a period that may not be shorter than three months, and in the same ruling order the forcible execution by the vacation of the real estate and its transfer to the purchaser if they do not hand it over in the period allotted them.

(2) The court will start forcible execution as defined in Paragraph 1 of this Article at the proposal of the purchaser after the ruling of that Paragraph becomes legally effective and after the period ordered in the ruling has elapsed. Execution is carried out according to the rules of this Law about execution by vacation and transfer of real estate.

(3) The period for the transfer of the real estate to the purchaser referred to in Paragraph 1 of this Article starts only when the ruling is served to the person renting or leasing the real estate and is not interrupted by the making of an appeal.

(4) In the procedure defined by Paragraphs 1 and 2 of this Article the purchaser has the position of distrainer.

Eviction of other persons

Article 124

(1) After the ruling about the transfer of the real estate to the purchaser is made the court will, at the proposal of the purchaser, order other persons who do not possess a valid written legal basis for the use of the real estate to give it up to the purchaser without delay and in the same ruling order execution against these persons by vacation and transfer of the real estate.

(2) The court will start on the execution as defined by Paragraph 1 of this Article immediately after the ruling of the Paragraph is made. An appeal will not delay the execution. The execution is carried

out according to the rules of this Law about execution by vacation and transfer of property.

(3) In the procedure defined by Paragraphs 1 and 2 of this Article the purchaser has the position of distrainer.

9. Application of the provisions of this chapter in a region where there is no land register

Article 125

(1) In a region where there is no land register, the legal rules that are valid in this region about documents that are submitted with a proposal for execution as a proof of the right of ownership on the real estate that is the subject of the execution are applied in an appropriate way, as are the legal rules about which public registers, or in some other way, the ruling about execution on the real estate will be entered.

(2) If it is impossible, for any reason at all, to provide proof of ownership in accord with the legal rules that are valid in this region, instead of proof of ownership the distrainer is bound in the proposal for execution to indicate the place where the real estate lies, its name, borders and area.

(3) In this case the court will make a distraining schedule of the real estate on which execution is proposed, and will summon the distrainer, the distrainee and the persons with whose real estate this real estate borders to a distraining schedule hearing.

(4) A minute about the distraining schedule will be placed on the court notice board.

(5) The court will publish in Narodne novine (Official Gazette) an announcement about the distraining schedule carried out, in which it will mention the court giving the announcement, the number of the case, detailed about the parties and the real estate on which the execution is being carried out and information about where and when the hearing was held at which the schedule was made of the real estate and when the minute about the distraining schedule was placed on the notice board. Through this advertisement the court will call on all interested parties to inform the court orally or in writing about reasons because of which execution cannot be carried out on this real estate.

(6) The provisions of this article will also be applied in a region in which there are land registers if the appropriate land register is destroyed or if the real estate is not entered into the land register.

(7) The regulations of this article will be applied when the real estate is kept in the cadastre in the name of the distrainee if the owner of the land register or his successors state in a declaration verified by the competent body that the distrainee is the owner of the property that is the subject of the execution.

Chapter Eleven

EXECUTION ON MOVEABLES

1. General provisions

Territorial competence if it is known where the movables are

Article 126

(1) Competence to adjudicate about a proposal for execution on moveables and to carry out this execution belongs to the court in whose area the moveables are to be found, according to the

designation in the proposal for execution

(2) The provision of Paragraph 1 of this Article is applied in an appropriate manner when the execution is started ex officio as well.

Territorial jurisdiction if it is not known where the moveables are

Article 127

(1) A distrainer can propose to a court to make an execution ruling on moveables without designating where they are.

(2) Territorial competence to adjudicate about a proposal as described in Paragraph 1 of this Article belongs to the court in the region of which is the permanent or temporary residence of the distrainee if a physical person or the headquarters of a legal person.

(3) In a case as described by Paragraph 1 of this article the distrainer can submit an execution to every court with real competence in whose area the distrainee's moveables are, with a proposal that this court carry out the execution.

Exemption from execution

Article 128

(1) The following may not be the subject of execution:

1. clothing, footwear, underwear and other items of personal use, bed clothing, pots and dishes, furniture, a cooker, a refrigerator, a washing machine and other things that serve to satisfy the needs of the household if they are necessary to the distrainee and the members of his family with respect to the ordinary conditions of life of his social environment,
2. food and fuel for the needs of the distrainee and his family for six months,
3. working and breeding livestock, agricultural machinery and other tools for work which are necessary for the distrainee who is a farmer for the upkeep of the farm to the extent that is necessary for his maintenance and the maintenance of the members of his family household, and seed for use on the farm and feed for livestock for four months,
4. tools, machinery and other items that are necessary for the tradesman or sole trader to carry out his registered business, and raw materials and fuel for his plant for three months' work,
5. items that are necessary to the distrainee who independently carries out in the form of a profession the work of a notary public, lawyer, physician, apothecary, scientist, artist or that of some other profession.
6. cash of the distrainee on the basis of claims that are exempt from execution and cash of the distrainee who has a constant monthly income up to the monthly amount that is according to the law exempt from execution, in proportion to the time to the next [time he receives his] income.
7. decorations, medals, war memorials and other awards and commendations, personal letters, manuscripts and other personal files of the distrainee, family photographs, personal and family documents and family portraits,
8. aids that have been awarded to a disabled person or a person with physical handicaps on the basis of the regulations or which he has obtained himself and which are necessary for the carrying out of

vital functions.

(2) Postal packets or postal money orders sent to the distrainee cannot be a subject of execution before they are delivered to him.

(3) It can also be ordered by law that other moveables also cannot be the subject of execution.

Execution actions

Article 129

(1) Execution on moveables is carried out by their seizure, evaluation and sale and the paying of the distrainer from the amount obtained from the sale.

(2) By an execution proposal it can be requested that only seizure and valuation be carried out, but in this case the distrainer is bound within a period of three months of the day of the distraining list or the evaluation make a proposal for the sale of the things.

(3) If the distrainer within the period defined by Paragraph 2 of this Article does not make a proposal for sale, the execution will be discontinued.

2. Seizure and evaluation of moveables

Notice of seizure

Article 130

1. The court distraining officer, before starting on the seizure, will hand the distrainee a ruling about execution and call on him to pay the amount for which execution has been ordered, together with interest and costs.

2. The distrainer will be informed about the time and place of the seizure if he has requested this.

3. The absence of the distrainer will not prevent the carrying out of the seizure.

4. A party that was not present at it will be informed about the seizure.

The subject of seizure

Article 131

(1) Seizure is done by making up a seizure schedule.

(2) Moveables that are in the possession of the distrainee and his moveables that are in the possession of the distrainer can be scheduled.

(3) It will be considered that things that the distrainee has on him or that are in his real estate, in the residence in which he lives or in the business premises he has leased, are things belonging to the distrainee.

(4) It will be considered that spouses are co-owners in equal parts of all moveables found in their house, flat, business premises or other real estate.

(5) Moveables belonging to the distrainee in the possession of a third party can be scheduled only if the third party consents.

(6) If the third party does not consent to the schedule, the court, at the proposal of the distrainer, will transfer the distrainee's rights to the transfer of the things to the distrainer.

The scope of the seizure schedule

Article 132

(1) As many moveables will be scheduled as are necessary for the payment of the distrainer's claim and the costs of the execution.

(2) Primarily moveables are scheduled about which there are no objections about the existence of rights that would prevent execution and moveables that can be the more easily liquidated, to do with which the statements of the parties present and third persons can be taken into consideration.

(3) The court can, at the proposal of the distrainee, subsequently order execution on another subject, and not that which is scheduled in the proposal of the distrainer, if there is a considerable disproportion between the value of the item and the amount of the claim. In this case the provisions of Article 78 of this Law are applied in a suitable way.

Safekeeping the moveables scheduled

Article 133

(1) The court distraining officer will leave the scheduled moveables to the safekeeping of the distrainee unless the court, at the proposal of the distrainer, has ordered that they should be transferred to the safekeeping of the distrainer or some third party.

(2) The danger of the destruction or damage of the moveables given over to the safekeeping of the distrainer or a third party will be borne by the distrainer, unless the damage or destruction is the consequence of force majeure.

(3) On the scheduled things that are left to the safekeeping of the distrainee it will be visibly marked that they have been seized.

(4) Cash, securities and valuables will be placed on deposit with the court or a notary public.

(5) Other valuables of greater value will also be placed on deposit with the court or a notary public if they are suitable for this kind of safekeeping.

A prohibition upon disposing of the moveables scheduled

Article 134

(1) The distrainee is forbidden to dispose of the things that have been seized.

(2) The execution ruling contains this prohibition and a warning to the distrainee of the criminal consequences of acting in despite of the prohibition.

Acquisition of a lien

Article 135

(1) By the seizure schedule the distrainer acquires a lien over the moveables scheduled.

(2) If the schedule is made for the advantage of several distrainers the order of priority of the lien acquired with the schedule or the note in the minute about the seizure list is determined according to

the day when the schedule is done or when the notation is made.

(3) If things are scheduled at the same time for the advantage of several distrainers, the order of priorities is set according to the day when the execution proposal was received in the court, and if the execution proposals were received the same day, their liens have the same order of priority.

(4) If the proposal for execution was sent by registered post, the day the proposal was given to the post office will be considered the day it was received in the court.

Unsuccessful attempts at seizure

Article 136

(1) If during the seizure no moveables are found that might be the subject of execution the court will inform a distrainer not present at the seizure of this.

(2) A distrainer can within a period of three months of being served with this information or from the day of the attempted seizure propose that the seizure is undertaken once again.

(3) If a distrainer in the period described in Paragraph 2 of this Article does not propose a renewed implementation of the seizure, or if once again at the renewed seizure no things were found that could be the subject of execution, the court will discontinue the execution.

Valuation

Article 137

(1) At the same time as the seizure schedule a valuation of the moveables will be done.

(2) The valuation will be done by the court distraining officer, unless the court has ordered that it be done by a court valuation officer or a special expert.

(3) A party may be proposed that the valuation be done by an expert even if the court has not ordered it. If the court accepts the proposal, the costs of the expertise have to be advanced by the proposer in the period ordered by the court. If the advance is not paid in the period, it will be considered that the proposer has withdrawn his proposal.

(4) The court will be decided by a conclusion on a proposal as defined in Paragraph 3 of this Article.

(5) The costs of the expert valuation as defined by Paragraph 3 of this Article are borne by the proposer, irrespective of the outcome of the execution procedure.

(6) A party can, within a period of eight days of the valuation being done, propose to the court the determination of lower or higher values for the seized moveables than the valuation, or the ordering of a new valuation. The court will be decided by a conclusion about the proposal.

Minute about the seizure schedule and the valuation

Article 138

(1) A minute is made about the seizure schedule and the valuation.

(2) Among other things, in the minute are marked down the seized moveables with their estimated values and the statements of the parties and the participants in the procedure are entered as well as the declarations of third persons about the existence of rights that prevent execution.

A note instead of a seizure schedule

Article 139

If execution is ordered on the seized moveables after the seizure schedule for the payment of some other claim of the same distrainer or the claim of another distrainer, another schedule and another valuation of these moveables will not be done, but in a continuation of the minute the data of the later execution ruling will simply be noted in the continuation to the minute.

3. Sale of moveables

Time of the sale

Article 140

- (1) The sale of seized items can be carried out only after the execution ruling becomes legally effective, unless the distrainee consents to the sale taking place before this, or if it is a question of moveables that are subject to rapid deterioration, or if there is a danger of a considerable value in the price of them, or if the distrainer gives security for the damage which he would be obliged to compensate the distrainee for in the event that the execution ruling does not become legally effective.
- (2) The court will be decided by a conclusion about a sale before the execution ruling becomes legally effective.
- (3) At least fifteen days have to elapse between the day of the seizure schedule and the day of the sale.
- (4) The sale can be carried out before the elapse of the period as defined in Paragraph 3 of this Article for reasons mentioned in Paragraph 1 of this Article.

The manner of the sale

Article 141

- (1) The moveables are sold by an oral public auction or by direct treaty. The manner of sale is ordered by the court by a conclusion, taking care that the things can be liquidated as favourably as possible.
- (2) The public auction will be carried out by the court distraining officer. The court may by a conclusion confide the auction to a notary public.
- (3) A sale by direct treaty is carried out between the purchaser on the one hand and the distraining officer of the court or a person who undertakes commission works on the other hand. The distraining officer sells the moveables on behalf of and at the expense of the distrainee, and a person who undertakes commission works on behalf of himself, and at the expense of the distrainee.
- (4) A sale by auction will be ordered if it is a question of moveables of some considerable value, and which can be expected to be sold at a price higher than the estimated valuation.
- (5) The sale of moveables will be announced in good time on the notice board of the court and can be announced also in the same way envisaged for the announcement of the sale of real estate.
- (6) The distrainer and distrainee will be informed of the place, day and hour of the sale.

The sale price

Article 142

- (1) At the first auction the moveables cannot be sold at a price less than two thirds of the estimated value. They cannot be sold below this price in the period that the court has sold ordered for sale by direct treaty.
- (2) If the price defined in Paragraph 1 of this Article is not reached at the first auction, the court will, at the proposal of a party, order a new auction at which the moveables can be sold below this price, but not below one third of the estimated value.
- (3) The provision of Paragraph 2 of this Article will be applied in an appropriate way when the seized moveables could not be sold by direct treaty at the price as defined by Paragraph 1 of this Article in the period ordered by the court.
- (4) A proposal for a second auction or for a sale by direct treaty can be made by a party within a period of fifteen days of the day of the first auction, or of the day of the elapse of the period that the court ordered for the sale by direct treaty.
- (5) The court will discontinue the procedure if none of the parties proposes a second auction or a second sale by direct treaty within the prescribed time, or if the things cannot be sold at the second auction either, or if they cannot be sold by direct treaty within the new period ordered by the court.

Obligations and rights of the purchaser

Article 143

- (1) The purchaser is bound to pay down the purchase money and take the moveables immediately after the end of the auction, or after the sale by direct treaty.
- (2) If the purchaser does not pay down the money at once, it will be considered that the auction has not succeeded. The purchaser is bound to compensate the parties for the damage they have suffered by his withdrawal, about which the court, at the request of the parties, will decide in the execution procedure.
- (3) The distraining officer of the court will transfer the moveables to the purchaser even if he has not paid down the purchase price if the distrainee consents to this at his own risk within the limits of the amount that would accrue to him from the achieved price. If the purchaser does not pay down the purchase money in the period allotted to him, the distrainer can request the court in the same procedure to order the purchaser to pay the price and after the legal effectiveness and executability of this order propose execution against him.
- (4) The purchaser in any event becomes the owner of the moveables by taking possession of them.
- (5) The purchaser has no rights on the basis of liability because of any failings of these things.

Paying the distrainer

Paying a single distrainer

Article 144

- (1) If only one distrainer is to be paid from the proceeds of the sale the court will, without holding a hearing, order by a ruling that from the amount obtained from the sale of the things and the money

taken the following will be paid in order: the costs of the proceeding, the costs determined in the execution document, interest up to the day of the liquidation of the moveables and the principal of the claim.

(2) The excess of the sale price that remains after all the payments have been made will be given to the distrainee if there is no impediment.

Payment of several distrainers

Article 145

(1) If several distrainers are being paid in the execution procedure, or if, as well as the distrainers, people are being paid whose rights end on the sale of the moveables, they will be paid from the purchase price in the same order in which they obtained their liens or other rights that cease with the sale if by the law for given claims no priority right of payment is prescribed.

(2) Distrainers of the same order of priority who cannot be completely paid from the purchase price will be paid in proportion to the amount of their claims.

(3) Costs of the execution procedure, costs ordered by the execution document and interest have the same order of priority of payment as the main claim.

(4) While making an order about payment the court will take into consideration only those claims for which the execution ruling has become legally effective by the day of the sale of the scheduled things.

5. Application of the provisions of execution on real estate

Article 146

The provisions of this law about execution on real estate will be applied in an appropriate way to the procedure about execution on moveables, unless differently provided for by the provisions of this chapter.

Chapter Twelve

EXECUTION ON MONETARY CLAIMS OF THE DISTRAINEE

1. General provisions

Territorial competence [jurisdiction]

Article 147

(1) The court on whose territory the permanent residence of the distrainee lies is territorially competent to adjudicate on claims for execution on monetary claims of the distrainee, while if the distrainee has no residence in the Republic of Croatia, the court on whose territory the distrainee's temporary residence is found is competent to adjudicate.

(2) If the distrainee does not have even a temporary residence in the Republic of Croatia the court in which the permanent residence of the distrainee's debtor lies will be territorially competent, and if this person also does not have a permanent residence in the Republic of Croatia, the court in which the temporary residence of the distrainee's debtor lies will be territorially competent.

(3) Provisions of Paragraphs 1 and 2 of this Article that relate to the residences of private persons

are applied in an appropriate way to the headquarters of legal persons.

Exemption from execution

Article 148

(1) The following are exempt from execution:

1. income on the basis of legal maintenance, compensation for damage because of impaired health or reduced or lost ability to work and compensation for damage for lost maintenance because of the death of the giver of maintenance,
2. income on the basis of compensation because of physical injury according to the regulations about disability insurance,
3. income on the basis of social security,
4. income on the basis of temporary unemployment
5. income on the basis of child benefit
6. income on the basis of scholarship and help to pupils and students,
7. the income of soldiers and students of military schools,
8. compensation for the work of convicts, except for claims on the basis of legal maintenance and claims for damages caused by the criminal action of the convict,
9. income on the basis of distinctions and commendations.

Restriction of execution

Article 149

- (1) Execution on pay, compensation instead of pay, on compensation for reduced work time and compensation for reduced pay and retirement benefit, for the payment of claims on the basis of legal maintenance, compensation for damage because of impairment of health and reduced or lost ability to work and the compensation of damage for the loss of maintenance because of the death of the giver of maintenance can be carried out up to the amount of one half, and for the payment of claims on any other basis up to the amount of one third of the pay, compensation instead of pay or pension.
- (2) If the distrainee receives a guaranteed wage in line with a collective agreement or law, the execution for the payment of claims described in Paragraph 1 of this Article can be carried out to the amount of one third, or one quarter, of that wage.
- (3) The provision of Paragraph 1 of this Article is applied to the pay of military personnel and to the pay of persons in the reserve during the time they are doing military service.
- (4) Execution on the income of individuals on the basis of financial compensation for physical injury and payment for the care and nursing of another person can be carried out only for the payment of claims on the basis of legal maintenance, the compensation of damage for impaired health or reduced or lost ability to work, and compensation for damage for lost maintenance because of the death of the giver of maintenance, and then up to the amount of one half of this income.

(5) Execution on income on the basis of an agreement about life-long maintenance and life-long income and on incomes on the basis of a life insurance contract can be carried out only on the part that surpasses the amount of the highest permanent social welfare that is paid out in the region in which the distrainee has his residence.

Execution actions

Article 150

(1) Execution on monetary claims is carried out by seizure and transfer, unless otherwise provided for in this Law for individual cases.

(2) In an execution proposal it can be demanded that only the seizure of the money claim is carried out, but in this case the distrainer is bound in a period of three months from the day when he is served the ruling about the seizure or the day when he is served the information of the response of the distrainee's debtor or that this debtor has not made a response in the given time, to make a proposal for the transfer of the claim.

(3) If the distrainer does not make such a proposal in this period time, the execution will be discontinued.

The extent of the execution

Article 151

(1) Seizure and transfer of monetary claims can be ordered and carried out only in the amount that is necessary for the payment of the claim of the distrainer, unless it is a question of a claim that cannot be divided.

(2) If several distrainers seek execution on the same claim that is divisible, seizure and transfer are ordered in appropriate amounts, separately for the benefit of each distrainer.

2. Seizure [attachment] of the claim

The effect of the seizure

Article 152

(1) Seizure is carried out by serving the distrainee's debtor with an execution ruling by which the distrainee's debtor is forbidden to satisfy the distrainee's monetary claim, and the distrainee is forbidden to collect this claim or to dispose of it and the collateral that is given for its security.

(2) Seizure is carried out on the day of the serving of the execution ruling to the distrainee's debtor.

(3) The distrainer acquires a lien on the distrainee's claim via this seizure.

(4) The distrainee's debtor has no right to appeal against a seizure ruling.

Seizure of a claim based on securities

Article 153

(1) The seizure of a monetary claim based on a securities that are transferred by endorsement or for the obtaining of which the security itself is necessary is carried out by the distraining officer of the court taking the paper from the distrainee and handing it to the court or the notary public. Seizure is

done by the taking of the security [paper] away from the distrainee.

(2) The legal actions necessary for safekeeping or gaining the rights derived from the paper in Paragraph 1 of this Law are done in the distrainee's name by the court distraining officer on the basis of a conclusion of the court.

(3) The seizure of a monetary claim based on a share for which a document about the share has not been issued and on a share in the name for which the document was issued is done by serving a ruling about seizure to on the joint stock company. In this case the provisions of Article 152 of this Law are applied in an appropriate way.

Prohibition [sic] of claims on savings deposits

Article 154

(1) Exceptionally to the regulations of Article 154 of this Law, the seizure of claims according to savings deposits at a bank or some other legal person can be carried out even without the previous confiscation of the savings booklet of the distrainee.

(2) If the distrainer does not have the necessary data about the savings deposit of the distrainee, the court can propose the making of a ruling by which it will temporarily seize all the savings deposits of the distrainee with a certain legal person (a proposal for temporary seizure).

(3) With the temporary seizure ruling, the court will require from the legal person details of the savings deposits of the distrainee.

(4) The legal person is bound without delay to give the court the details sought and must not inform the distrainee that these details have been sought.,

(5) After it gains the details sought, the court will inform the distrainer about them, and he is bound in a period of eight days to propose execution on a certain savings deposit or on certain savings deposits. In response to this proposal the court will make a ruling about the seizure of a certain savings deposit or certain savings deposits and cancel the ruling about the temporary seizure of the savings deposits.

(6) A proposal for a temporary seizure as described in Paragraph 2 of this Article and a proposal as described in Paragraph 5 of this Article are considered, in connection with the provisions of the regulations about court fees, one proposal.

(7) If a savings booklet has not previously been confiscated from the distrainee, it will be considered that the seizure of a certain savings deposit is carried out on the day of the service of the ruling about the temporary seizure on the legal person with whom the savings deposit is kept.

(8) The legal person who keeps the savings deposit has the right to be reimbursed for the costs concerned with undertaking the work in accord with the provisions of this article. A request for reimbursement of costs can be submitted within a period of fifteen days of the work being done. These costs enter into the costs of the execution proceeding.

Lien on interest

Article 155

A lien acquired over a claim that attracts interest also relates to interest that falls due after the seizure.

Order of priority

Article 156

- (1) The order of priority of the liens of several distrainers is determined according to the date of the receipt of the execution proposal.
- (2) If the execution proposal is sent by registered post, the date of the proposal being made at the court is the day the proposal is given in to the post office.
- (3) If their execution proposals of several distrainers are received in the court on the same day, their liens have the same order of priority.
- (4) Claims with the same order of priority are paid in proportion to the claim, if they cannot be paid in their entirety.
- (5) If because of the implementation of execution on monetary claims liens and other rights obtained before the starting of the procedure cease, the order of priority for the payment of these rights is determined according to the regulations that order the acquisition of order of priority of these rights outside the execution procedure.

Statement from the distrainee's debtor

Article 157

- (1) The court will, at the proposal of the distrainer, require of the distrainer's debtor that in a period ordered by the court he will make his response about whether he admits, and to what amount, the seized claim and whether he is willing to pay it, and whether his obligation to pay this claim conditional upon the fulfilment of some other obligation.
- (2) The distrainer can join the proposal for the response of the distrainee's debtor together with the execution proposal, or he can give it in a special submission after this proposal, and not later than the transfer of the claim.
- (3) The response of the distrainee's debtor will be served on the distrainer without delay.

The liability of the distrainee's debtor

Article 158

- (1) The distrainee's debtor is liable to the distrainer for damage that he does to him for not making a response, or making an incorrect or incomplete response.
- (2) The court will warn the distrainee's debtor of his liability.

Seizure of claim secured by a lien entered in a public book

Article 159

- (1) Seizure of a claim secured by a lien entered in a land register or other public book in which rights on real estate are entered is carried out by the entry of the seizure in this book.
- (2) The entry is done ex officio, with an indication that the seizure on the basis of which a lien has been obtained on the claim has been ordered to pay the claim of the distrainer.
- (3) If there are several distrainers, the order of priority of their claims is determined according to the

time of entry.

3. Transfer of the claim

a) General provisions

Kind of transfer

Article 160

(1) A seized claim is transferred to the distrainer in accord with this proposal, for collection or instead of payment.

(2) The distrainer is bound as early as the execution proposal to ask to have the claim transferred to him for collection or instead of payment unless otherwise provided for by this Law. The court decides on the kind of transfer in the execution ruling.

(3) In the execution ruling or in a special transfer ruling the distrainee's debtor will be called to place the amount due with the court by making a payment to a certain account and informing the court of this.

Special conditions for transfer of a claim that cannot be divided

Article 161

(1) A claim that is founded on a security that is transferred by an endorsement or for the realisation of which the submission of this paper is required or which for other reasons cannot be divided with respect to transfer or realisation, can be transferred only in its entire amount.

(2) If several distrainers have submitted a proposal for transfers on various days, the court will transfer the claim to the distrainer who first submitted a proposal, and if several distrainers submitted a proposal on the same day, the claim will be transferred to the distrainer with the highest claim.

Implementation of transfer

Article 162

(1) The transfer of a claim is implemented by the serving on the distrainee's debtor of a ruling by which the transfer is ordered.

(2) The transfer of a claim founded on a security which is transferred by endorsement or which for realisation has to be submitted, is carried out when a declaration about the transfer is placed on this security [on the paper of the security] and the security is handed over to the distrainer with this declaration.

The obligations of the distrainee and the distrainer

Article 163

(1) The distrainee is bound within a period of time ordered by the court at the request of the distrainer to whom the claim has been transferred to give explanations that are necessary to the distrainer for the realisation of this claim, and to give him the documents that relate to this claim.

(2) The distrainer to whom part of the claim has been transferred is bound, if the distrainee so asks,

in a period of time ordered by the court, to provide security that after the realisation of this claim he will return the documents that relate to the claim.

(3) At the proposal of the distrainer the court will carry out execution against the distrainee for the handing over of these documents if he does not hand them over himself.

(4) The distrainer can demand the handing over of documents that are kept with a third person by a suit, if the distrainee has the same right.

(5) On a document that is given to the distrainer, the court will note that the transfer of the claim for which execution was ordered has been carried out.

Depositing money with the court or with a notary public

Article 164

(1) The distrainee's debtor who has been served an execution ruling or a special ruling about transfer fulfils his obligation by depositing the money with the court that is carrying out the execution, or with a notary public.

(2) If for the collection of the transferred monetary claim the distrainer has had to start a court or other proceeding, the court or the body that is running the proceeding, in the decision in which it accepts the request of the distrainer, will order the distrainee's debtor to place the due amount with the court that is carrying out the execution.

(3) On the basis of a decision in which the distrainee's debtor is ordered to place the amount due with the court that is carrying out the execution, or with the notary public, at the proposal of the distrainer to whom the claim has been transferred, execution will be carried out against the distrainee's debtor and the money collected in this execution, after the payment of the costs of the procedure, will be transferred ex officio to the court that is carrying out the execution. The court will be informed about the transfer that has been done.

b) Transfer for the sake of collection

Authorisations of the distrainer

Article 165

(1) By the transfer of a claim for the purpose of collection the distrainer is authorised to seek of the distrainee's debtor payment of the amount indicated in the execution ruling or in the special transfer ruling, if this amount is due, that he do everything needful to keep safe and realise the transfer of the claim and that he makes use of the rights in connection with the deposit that has been made for the securing of the claim.

(2) By the transfer of a claim for collection, the distrainer is not authorised at the expense of the distrainee to make a settlement, to cancel the distrainee's debtor's debt or dispose of the transferred claim otherwise, nor to make a contract with the distrainee's debtor that the decision about the claim, should it be contested, be made by a selected court.

(3) The distrainee's debtor can make only the same objections to the distrainer to whom the claim has been transferred for collection that he could make to the distrainee.

(4) Cession of a transferred claim done by the distrainee after the transfer is without effect on the rights that the distrainer has acquired via the transfer.

Transfer for collection of a claim entered in a public book

Article 166

Transfer for the sake of collection of a claim entered in a land register or other public book in which rights on real estate are entered will be entered ex officio.

The conditionally of the obligation of the distrainee's debtor on the transfer of things

Article 167

(1) If the obligation of the distrainee's debtor to pay out a claim depends on the obligation of the distrainee to give him a certain thing that lies in the possession of the distrainee, and this obligation is determined by a legally effective verdict, the court will, at the proposal of the distrainer to whom the claim has been transferred for collection, order the distrainee to give the thing to the court for transfer to the distrainee's debtor.

(2) At the proposal of the distrainer, the court will carry out execution against a distrainee who has not handed over the thing in a given time.

Informing a distrainee about a suit for the collection of a transferred claim

Article 168

A distrainer who has filed a suit for the collection of a transferred claim is bound without delay to inform the distrainee about the suit that has been filed. Otherwise he will be liable for the damages that the distrainee has suffered by this oversight.

Lateness in collecting a transferred claim

Article 169

(1) A distrainer who does not take care of the collection of a transferred claim is liable for damage that is thus caused to another creditor who has a lien or some other right that is paid by the claim.

(2) In a case as described by Paragraph 1 of this Article the court can, at the proposal of the other creditor, cancel the ruling about the transfer of the claim to the disorganised distrainer and transfer the claim to another creditor.

Paying the distrainer

Article 170

(1) The distrainer to whom the claim has been transferred for collection is paid from the funds placed with the court or the notary public.

(2) The payment of the distrainer or other persons whose rights cease with the implementation of execution is carried out with an appropriate application of provisions of Articles 144 and 145 of this Law.

c) Transfer instead of paying out

Article 171

(1) The seized claim passes by transfer instead of payment to the distrainer up to the transferred amount, with the effect of cession of the claim with compensation. ??

(2) If the transferred claim is secured by a lien entered in the land register or some other public book in which rights on real estate are entered, the court will, ex officio, transfer the distrainee's rights to the distrainer, and expunge the lien entered in favour of the distrainee.

(3) The distrainer to whom the claim is transferred instead of a payment is bound to collection the claim according to the rules that are good for claims transferred for collection, with the proviso that the money obtained by the realisation of the claim is paid directly to the distrainer, except in a case as described by Paragraph 4 of this Article.

(4) A distrainee to whom a claim is transferred instead of a payment is considered paid by the very transfer itself, to the amount of this claim, unless several distrainers take part in the execution procedure or other creditors who are paid by the transferred claim. If such persons participate in the execution procedure, the distrainer to whom the claims is transferred instead of a payment will be considered the distrainer to whom the claim is transferred for collection.

(5) The circumstance that the claim has been transferred to the distrainer instead of a payment does not affect the responsibility of the distrainee for the truthfulness and collectability of the transferred claim.

4. Special rules about execution on wages and other regular money income

The Application of the provisions of this chapter

Article 172

In execution on pay and other regular money income the rules of sections 1 to 3 of this chapter apply, unless otherwise provided for in this section.

An execution ruling

Article 173

(1) By a ruling on execution on wages the seizure of a certain part of the wage is ordered and the employer who pays out the pay to the distrainee is ordered to pay the amount of money on which execution has been ordered to the distrainer after the ruling becomes legally effective.

(2) A ruling about execution also relates to any increase in the wage that might occur after the serving of the execution ruling.

Execution when right to maintenance is enjoyed by several persons

Article 174

(1) If the right to legal maintenance, or the right to an income for loss of maintenance because of the death of the giver of maintenance is claimed from the same distrainee by several persons, and if the total amount of their claims exceeds the amount of the wage that can be the subject of execution, execution is ordered and carried out in favour of each of these distrainers in proportion to the amounts of their claims.

(2) If after implementation of execution on wages has begun, or on some other regular money income, a new proposal for execution on the claim as defined by Paragraph 1 of this Article is made, the court will change, ex officio, the previously made ruling about execution in the sense understood by Paragraph 1 of this Article and determine the amount that will in the future be paid to the individual distrainers.

(3) In a case as described in Paragraph 2 of this Article, the execution ruling is served on the previous distrainer, who has the right of appeal against the ruling.

The place of the payment

Article 175

(1) Claims for which non-cash payments are not prescribed will be collected by the distrainer directly at the till at which the distrainee is paid his wage.

(2) The distrainer has the right to require that the stopped amount is paid to him by post at an address that he gives or at a certain account with a legal person that undertakes payment business, with a deduction for the costs of the transfer.

Cessation of work

Article 176

(1) When the distrainee stops working, the execution ruling also has an effect on any other employer with whom the distrainee makes a contract about work or employment, from the day on which that employer is served the execution ruling.

(2) The previous employer of the distrainee is bound without delay to deliver the execution ruling to the new employer and inform the court of this.

(3) The previous employer will inform the court about the cessation of the work contract without delay if he does not know the new employer, about which the court will inform the distrainer, giving him time in which to find data about the new employer.

(4) If the distrainer does not inform the court in the time given him about the new employer, the court will discontinue the execution.

Liability of an employer for a stoppage of wages that is not made and the payment of the instalments that are due

Article 177

(1) The distrainer may propose that the court in an execution procedure issue a ruling ordering the employer to pay him all the instalments that he failed to stop and pay out according to the execution ruling.

(2) A proposal as defined by Paragraph 1 of this Article can be made by a distrainer right up to the closure of the execution proceeding.

(3) On the basis of a legally effective ruling as defined by Paragraph 1 of this Article the distrainer can seek execution against the employer in the same execution proceeding.

(4) An employer who has not acted according to an execution ruling or has failed to act according to Article 176 Paragraphs 2 and 3 of this Law is liable for the damage that the distrainer has suffered because of this.

Seizure with the consent of the distrainee

Article 178

(1) A debtor may with a document verified at a public notary give his consent that for the collection of the claim of the creditor a part of his wage be seized [attached] and that it be paid directly to the creditor in a way detailed in this document. This document has the legal effect of an execution ruling.

(2) A document as defined by Paragraph 1 of this Article with the effects of the service of a ruling about execution is served on the employer by the creditor by registered post s povratnicom* or via a notary public.

(3) Exceptionally to the provision of Paragraph 1 of this Article, seizure on the basis of the consent of the debtor has no effect on the implementation of execution on wages for the payment of claims on the basis of legal maintenance, compensation for damage because of impaired health or reduced or lost ability to work and compensation for damage for lost maintenance because of the death of the giver of maintenance.

The application of the provisions of this section

Article 179

The provisions of this section can be applied in an appropriate way to the execution on other regular sources of monetary income of the distrainee.

5. Execution on a claim against an account at a bank or other legal person that carries out payment business

Forcible execution

Article 180

(1) Execution on a monetary claim that the distrainee has against a giro account, a foreign currency account and other accounts at a bank or other legal persons that undertake payments transactions is ordered in such a way that the execution ruling orders the bank or the other legal person that undertakes payments transactions to pay the distrainer the monetary amount about which execution has been ordered when the ruling becomes legally effective. This ruling has the effect of an execution ruling by which the seizure of a monetary claim and the transfer for collection is ordered.

(2) In an execution ruling as defined by Paragraph 1 of this Article the number of the account of the distrainee from which the payment should be made will be specified and the number of the account of the distrainer to which payment should be made, or some other way of making the payment.

(3) The execution ruling is served on the bank or the legal person that undertakes payments transactions before it becomes legally effective. The court will inform the bank or other legal person that undertakes payments transactions about the legal effectiveness of the ruling ex officio.

(4) In execution as defined by Paragraph 1 of this Article the provisions of Article 154 of this Law will be applied in an appropriate manner.

(5) The provisions of Paragraphs 1 to 4 of this Article are not applied to claims on the basis of a savings deposit.

Obligation to supply data about accounts

Article 181

The bank or legal person that undertakes payments transactions is bound at the request of the court to supply details about giro accounts, foreign currency accounts or other accounts held by the distrainee.

The liability of the bank or legal person that undertakes payments transactions

Article 182

The provisions of Article 177 of this Law are applied in a suitable way to the liability of a bank or other legal person that undertakes payments transactions because of their failure to act according to an execution order.

Seizure of an account with the consent of the debtor

Article 183

(1) A debtor may give his consent by a document verified at a notary public that, for the purpose of the collection of a claim of a creditor, a certain account of his at a bank or other legal person that undertakes payments transactions be seized and that the funds from the account, in line with his declaration contained in the document, be paid directly from the account to the creditor. This kind of document has the legal effect of a legally effective execution ruling through which claims on accounts are seized and is transferred to the distrainer for the purpose of collection.

(2) The creditor serves on a bank or other legal person that undertakes payments transactions the document as described in Paragraph 1 of this Article with the effect of the service of a court execution ruling, directly to the reception office of the bank or the other legal person that undertakes payments transactions business, by registered post with povratnica* or via a notary public.

(3) The provision of Article 178 Paragraph 3 of this Law is applied in an appropriate way to execution as defined by Paragraph 1 of this Article.

The application of the provisions of this chapter

Article 184

In execution on claims against an account at a bank or other legal person that undertakes payments transactions business, the provisions of sections 1 to 3 of this chapter are applied in an appropriate manner, unless differently provided for in this section.

Chapter Thirteen

EXECUTION ON A CLAIM THAT MOVEABLES BE HANDED OVER OR DELIVERED OR
THAT REAL ESTATE BE HANDED OVER

1. General provisions

Territorial competence or jurisdiction

Article 185

Competence to adjudicate about an execution proposal on the disrainee's claim that certain moveable or immovable things be made over to him or that he be delivered a certain quantity of immovable and to implement this execution belongs to the court on whose territory the things are.

Execution works

Article 186

Execution on the distrainee's claim as described in Article 185 of this Law is implemented by the seizure of this claim, its transferral to distrainer and the sale of the things.

The effect of the transferral

Article 187

The transferral of the seized claim of the distrainee has the effect of the transferral of the distrainee's monetary claim for collection.

When the distrainee's claim is not due and a suit against the distrainee's debtor

Article 188

(1) If the distrainee's claim is not yet due, the court will order the transferral of the things after the claim becomes due.

(2) The distrainer can, even before the legal effectiveness of the ruling about the transferral of the claim, start a suit against the debtor of the distrainee who is not willing to surrender the things claiming the transferral of the things if he has no execution document about the obligation of the transferral.

(3) If the execution ruling does not become legally effective or it is later cancelled or altered, the court for the suit as defined by Paragraph 2 of this Article will dismiss the suit.

Application of provisions about execution on monetary claims

Article 189

Provisions about execution on monetary claims will be applied in an appropriate manner to the execution on a claim that moveables be handed over or delivered or that real estate be handed over, unless otherwise ordered by the provisions of this chapter.

2. Moveables

Handing things over for safekeeping

Article 190

(1) In a ruling in which the transferral of the distrainee's claim is ordered the court will order the distrainee's debtor to give the moveables to which the claim relates to an official person or some other person for safekeeping.

(2) The provisions of Article 133 of this Law are applied in a suitable manner to the safekeeping of things.

The sale of the things and the payment of the distrainer

Article 191

The sale of moveables handed over to the distraining officer of the court or a keeper in the sense of the provision of Article 190 of this Law and the payment of the distrainer will be done according to

the rules of this Law on execution on moveables.

3. Real estate

Surrender to the distrainer

Article 192

- (1) In a ruling in which the transferral of the distrainee's claim the court will order the distrainee's debtor to surrender the real estate to which this claim refers to the distrainer.
- (2) The distrainer is bound to manage the real estate, on behalf of and at the cost of the distrainee, as a good steward, and to lay before the court, at its request, an account of the management.

Sale and payment of the distrainer

Article 193

- (1) For the payment of his claim, the distrainer can, in a period that may not exceed thirty days from the day when the real estate is surrendered to him, propose to the court the sale of this real estate.
- (2) If the distrainer does not propose the sale in the due time, the court will discontinue the execution.
- (3) The real estate will be sold and the distrainer paid according to the rules of this Law about execution on real estate.

Chapter Fourteen

EXECUTION ON A SHARE FOR WHICH A SHARE CERTIFICATE HAS NOT BEEN ISSUED AND ON A SHARE OR A BUSINESS SHARE IN A COMPANY

Territorial competence

Article 194

Competence to adjudicate about an execution proposal on

a share for which a share certificate has not been issued and on a share or a business share in a company and to implement this execution belongs to the court on whose territory the headquarters of the joint stock company, or some other company, lies.

Execution works

Article 195

- (1) Execution is done upon a share for which a share certificate has not been issued by seizure of the share, its evaluation and sale and the payment of the distrainer.
- (2) To a share or a business share in a company execution is done by the seizure of the share, its evaluation and sale and the payment of the distrainer.

Seizure of shares

Article 196

(1) Seizure of a share for which no share certificate has been issued is done by serving the execution ruling on the joint stock company that keeps a book of such shares. By the seizure the distrainer obtains a lien on the share.

(2) A joint stock company as defined by Paragraph 1 of this Article is bound to enter into the book of shares that the registered share is seized the same day when it is served the execution ruling. It is bound without delay to inform the court of the entry that has been made or the reasons for which it was not possible to do this. The joint stock company has no right of appeal against an execution ruling.

(3) After being served with the execution ruling the joint stock company as defined by Paragraph 1 of this Article may not make any entries in the book of shares on the basis of the RASPOLO@BA of the distrainee. It is bound without delay to inform the court about every change with respect to the shares that have been seized, especially about forcible execution for collection of some other claim or about the security of some such claim.

(4) A joint stock company as defined by Paragraph 1 of this article is liable for the damage that the distrainer might suffer because it has not acted in accord with the provisions of Paragraphs 2 and 3 of this Article. The members of the management and other responsible persons of the joint stock company are also personally liable. In an execution ruling there will be put a warning about the liability of the joint stock company, of the members of the management and of other responsible persons of the joint stock company. The distrainer can, up to the end of the execution procedure, ask the court if this procedure to adjudicate on his application for compensation for damage. On the basis of a legally effective ruling about an application for compensation for damage the distrainer can seek forcible execution against the joint stock company, the members of its management and other responsible persons. After the closure of the execution proceeding, the distrainer can realise his claim for compensation for damage by a suit.

(1) If it deems it necessary, the court will, at the proposal of the distrainer, threaten the joint stock company and the members of its management with a fine or imprisonment if they do not act in accord with the provisions of Paragraph's 2 and 3 of this Article.

(6) The distrainee is forbidden to dispose of seized shares. A warning about this prohibition and the criminal consequences of infringing it will be put in the execution ruling.

(7) The provisions of Article 154 of this Law will be applied in an appropriate way to execution on a share for which no share certificate has been issued.

(8) The court can by a conclusion order the joint stock company to let the court distraining officer view the book of shares and other documents at the company. Penal measures prescribed by this law can be applied against a joint stock company, the members of the management and other responsible persons who prevent the distraining officer of the court or hinder him. The court is bound to take all possible measures to preserve the confidentiality of the data obtained according to the regulations about the safekeeping of business confidentiality.

Evaluation and sale of the shares and the payment of the distrainer

Article 197

(1) A seized share can be sold at an auction or by direct treaty. The share is sold by direct treaty by the distraining officer of the court or by a person authorised to sell shares appointed by the court. The distraining officer and the person authorised to sell the shares make a contract to sell the share in the name of the distrainee on the basis of the conclusion of the court that authorises them to do

so.

(2) If the share is sold at an auction or by direct treaty, it previously has to be valued. The distraining officer ascertains the market value of the share via an expert or an authorised valuer. A person authorised to sell shares determines the price himself at which the share will be sold, paying attention to market conditions.

(3) Valuation, ascertainment of the selling price and the sale of the share and the payment of the distrainer are done with an appropriate application of the rules of this Law about execution on moveables.

Execution on a share or a business share in a company

Article 198

The provisions of Articles 196 and 197 of this Law will be applied in an appropriate manner to execution on a share or a business share in a company.

Chapter Fifteen

EXECUTION ON OTHER PROPERTY OR MATERIAL RIGHTS

Territorial competence

Article 199

(1) Competence to adjudicate on a proposal about execution on a patent, a technical advance, a usufruct or some other right belonging to the distrainee and the implementation of the execution belongs to the court in whose territory the official residence of the distrainee lies, and if the distrainee has no official residence in the Republic of Croatia then the court in whose territory the temporary residence of the distrainee lies.

(2) The provision of Paragraph 1 of this Article that relates to residence is applied to the headquarters of a legal person.

(3) Territorial competence for execution on a bearer share is determined according to the provisions of this Law about execution on moveables.

Execution works

Article 200

Execution on rights as defined by Article 199 of this Law is carried out by seizure of the right and its liquidation in accord with the regulations about the sale of moveables.

Chapter Sixteen

SPECIAL PROVISIONS ABOUT EXECUTION ON THE PROPERTY OF LEGAL PERSONS

1. Exemption from execution and restriction on execution

Real estate

Article 201

(1) Real estate used for offices and real estate not built on or arranged for strictly special purposes

are not considered things that are necessary for the legal person to do its business. If the same piece of real estate, a building for instance, is used for office space and the carrying out of a special purpose, execution can be carried out on the part of the building used as office space.

(2) Real estate built upon or arranged for the performance of strictly special purpose can be the subject of execution if their alienation will not halt the work of the distrainee, especially if what the distrainee gets from the work in this real estate can be made up by procurement from the market or if on the market business premises can be leased in which the same work can be done.

(3) Real estate that serve for the performance of one of several activities of the distrainee, the alienation of which will not stop the other activities or businesses of the distrainee is not deemed something that is essential for the carrying on of his business.

Moveables and rights of legal persons that carry on their business for the purpose of making a profit

Article 202

(1) Execution against legal persons that carry on their business for the purpose of making a profit can be ordered on the following moveables and rights:

1. cash and securities, without restriction
2. ready made products, semi finished products meant for sale, without restriction
3. raw materials, semi finished products meant for processing and production materials (oil, lubricant and so on) above an amount that is necessary to the distrainee for a month's production, if these things cannot be regularly procured on the market and if they are necessary for the proper continuation of production,
4. other moveables not necessary for the performance of the business,
5. patents, technical advances and other rights, without restriction.

(2) Whether the conditions for restriction of execution as described in Paragraph 1 Point 3 of this Article are fulfilled is decided by the court, in response to legal remedy resorted to by the distrainee against an execution ruling if the subject of execution is determined in this ruling, or in response to a proposal of the distrainee after certain execution works have seized certain things. This proposal has to be submitted by the distrainee within a period of eight days of the day of the carrying out of the execution work.

(3) It will not be considered that moveable property is necessary for the carrying on the business of the distrainee if it serves for the carrying on of business that other persons provide by appropriate moveables on the market, or if it can be hired on the market.

(4) It will not be considered that a vehicle is necessary to a legal person that carries on a carrying business or that leases out vehicles unless because of this execution on the vehicle the business of the person is reduced by more than two thirds.

Moveables and rights of other legal persons

Article 203

(1) Execution against a legal person that does not carry on its business for the sake of making a

profit can be ordered on its rights and moveables that are not essential for carrying on its business.

(2) In a case as described in Paragraph 1 of this Article, the provisions of Article 202 Paragraph 1 Points 1, 4 and 5 and Paragraphs 3 and 4 of this law will be applied in an appropriate way.

The scope of execution on monetary funds in the account of a legal person

Article 204

(1) Execution to obtain a money claim against a legal person can be carried out on all funds in its accounts with the legal person that carries on payments transactions business, and on the kuna value of the foreign currency funds that it has in its foreign currency account.

(2) Execution cannot be ordered on funds in the account of the State and of units of local government and administration at the legal person that carries on payments transactions business or on the kuna value of foreign currency accounts that these persons have in their foreign currency account if these funds are necessary for the basic tasks of these legal persons to be carried out.

(3) The provision of Paragraph 2 of this Article is also applicable to the bodies of the legal persons from that provision.

(4) At the objection of a legal person or a body as defined by Paragraphs 2 and 3 of this Article the court will hear the parties, and when necessary carry out other proofs about the circumstances that the application of the provisions of Paragraphs 2 and 3 of this Article depends upon.

(5) After the check defined by Paragraph 4 of this Article the court will make a ruling ordered the amounts up to which at certain intervals execution may be ordered for the collection of the claim of the distrainer.

(6) An appeal against a ruling as defined by Paragraph 5 of this Article will not delay its implementation.

2. Execution on funds in the account of a legal person

Territorial competence

Competence to adjudicate about a proposal for execution on funds kept in the account of the distrainee with the legal person that carries out payments transactions business and to carry out this execution belongs to the court in whose area the unit of the legal person with which the account of the distrainee is kept.

Order of collection

Article 206

(1) The legal person that undertakes payments transactions business undertakes collection in the order according to the time of the serving of the execution ruling unless otherwise ordered by the law.

(2)) The legal person that undertakes payments transactions business keeps a record of the execution rulings served by day and by hour and issues the distrainee, at his request, a statement of the place of his claim in this order.

(3)) The legal person that undertakes payments transactions business cannot carry out an order of the distrainee before the payment of a claim determined in the execution ruling, unless ordered

otherwise by a special law.

(4) A document for which this is foreseen by a special law is equal to an execution ruling.

(5) If the execution is postponed at the distrainee's proposal, the appropriate amount of funds are separated out in order to maintain the order of the collection of the claim.

(6)) The legal person that undertakes payments transactions business is responsible to the distrainer for damage it does to him by violating the provisions of this Law about the scope, order and manner of paying the claim of a distrainer.

(7) A claim for compensation for damage as defined by Paragraph 6 of this Law will be adjudicated on by the court in the execution procedure. On the basis of a legally effective ruling by which the legal person that undertakes payments transactions business is ordered to compensate the distrainer for damage, the distrainer can seek execution against this legal person in a special execution procedure.

The designation of an account

Article 207

(1) A distrainer is bound in an execution proposal, among other things to indicate the unit of the legal person that undertakes payments transactions business with which the distrainee's funds are kept and the number of his account.

(2) If a claim that is being paid is collected via an account, the distrainer is bound in the execution procedure to designate the legal person at which his funds are kept and the number of the account.

(3) In execution as defined in this Article the provisions of Article 154 of this Law are applied in an appropriate manner.

A ruling about execution

Article 208

(1) A ruling about execution on funds that are kept at a distrainee's account at a legal person that undertakes payments transactions business orders this legal person to transfer the amount of money on which execution has been ordered from the account of the distrainee to the account of the distrainer.

(2) The transfer according to the provision as defined in Paragraph 1 of this Article is made after the ruling about execution has become legally effective.

(3) If in the execution proposal the distrainer proposes that the transfer according to the provision as defined in Paragraph 1 of this Article is carried out before the execution ruling becomes legally effective and provides security for any damage that the distrainee might suffer because of such a transfer, the court will by a conclusion give him a period in which to give the security, the amount of which the court will determine according to the circumstances of the case and, after the security has been given, order the transfer to be made before the legal effectiveness of the ruling. If the distrainer does not provide this security in the given time, it will be considered that he has withdrawn the proposal that the transfer be done before the execution ruling becomes legally effective.

Occasional giving

Article 209

- (1) If in the execution order the legal person that undertakes payments transactions business for the distrainee is order to pay certain amounts at certain intervals, this person will make these payments in accord with the order from the execution ruling.
- (2) In a case as described in Paragraph 1 of this Article, the order of collection of all future instalments is calculated according to the time of the serving of the execution ruling.
- (3) The legal person that undertakes payments transactions business keeps a special minute about execution rulings by which future occasional payments are ordered.

Execution pause

Article 210

- (1) The legal person that undertakes payments transactions business for the distrainee which has been served with an execution ruling on the funds in the account of the distrainee will pause in the execution at the request of the distrainer.
- (2) In a case of a pause as described by Paragraph 1 of this Article funds will not be set aside.

The proceeding in the event of there being no funds in the account

Article 211

- (1) If at the time when the legal person that undertakes payments transactions business is given an execution ruling there are no funds in the distrainee's account, this person will keep the ruling in a record and make the transfer accordingly when funds do come into the account.
- (2) The legal person as defined by Paragraph 1 of this Article will inform the court at once of there being no funds in the account.

Execution on joint and several distrainees

Article 212

- (1) If on the basis of the execution document there are two or more distrainees who are jointly and severally liable, the court will, at the proposal of the distrainer, make a single execution ruling against them, on condition that they all have their accounts at the same legal person that undertakes payments transactions business.
- (2) The distrainer can in the execution proposal determine the order in which collection will be made from each of the individual distrainees, and if this is not done, collection will be done in the order in which they are mentioned in the proposal.
- (3) If the accounts of the joint and several distrainees are kept at various units of the same legal person that undertakes payments transactions business for the distrainees the court will serve the execution ruling on the unit that keeps the account of the distrainee whom the distrainer has named as the first joint and several distrainee, or the distrainer first mentioned in the execution proposal.
- (4) If in a case as described by Paragraph 3 of this Article there are no funds in the account of the distrainee, the unit that was served the execution ruling will send the ruling, at the proposal of the distrainer, to some other unit that keeps the accounts of the joint and several distrainees.

The order of payment from individual accounts of legal persons

Article 213

(1) The distrainer orders the order of payment from individual accounts of (a) debtor(s), unless otherwise provided for by the law.

Execution on funds in a foreign currency account

Article 214

If execution is being carried out for collection of a kuna claim, the funds from a foreign currency account owned by the distrainee are calculated in kuna at the rate at which the legal person with whom the account is kept would calculate it at his request, and payment is done according to the rules about payments from a kuna account.

Execution for the collection of a claim in foreign currency

Article 215

(1) If the claim determined in the execution document is in terms of foreign currency and if the distrainee has a foreign currency account in this currency, the legal person with whom the account is kept will be ordered by the execution ruling to transfer the appropriate amount in foreign currency to the account of the distrainer, or to make the payment in foreign currency in some other permitted manner.

(2) The distrainer can seek that the execution for the payment of his claim in a given foreign currency be ordered and carried out on other accounts or items of the distrainee like execution for the collection of a claim in kuna to the amount necessary for the due foreign currency funds to be bought at an authorised person.

(3) The provisions of Paragraphs 1 and 2 of this Article are applied even when execution is ordered against distrainees who are not legal persons.

3. Appropriate application of other provisions of the Law

Article 216

If nothing else is expressly ordered by the provisions of this chapter, other provisions of this section will be applied in an appropriate manner to execution against a legal person for the collection of a monetary claim.

Part Three

EXECUTION FOR THE SAKE OF NON-MONETARY

CLAIMS

Chapter Seventeen

JUDICIAL PENALTIES

The pronouncement of court penalties

Article 217

(1) When a debtor does not perform in the right period some non-monetary obligation that he has that is ordered by a legally effective judicial decision, judicial settlement or notary public document, the court will, in an execution procedure, at the proposal of the creditor as distrainer, order the debtor as distrainee an additional suitable period of time and tell the distrainee that if he does not fulfil his obligation in this period he will be bound to pay the distrainer a certain sum of money for every day of delay or other unit of time (court penalty) in the sense understood by the rules of obligatory relations, starting from the expiry of that time.

(2) The additionally ordered suitable period of time as defined by Paragraph 1 of this Article will begin from the serving on the distrainee of the first instance ruling by which this period is ordered. An appeal does not have any effect on the course of this period.

(3) If the distrainee at the latest in a period of fifteen days after the legal effectiveness of the ruling as described in Paragraph 1 of this Article fulfils his obligation the court can in the same execution procedure at the request of the distrainee reduce the amount of penalties awarded, taking account of the purpose because of which it ordered their payment. The submission of this request does not have any effect on the ordering and implementation of execution on the basis of the legally effective ruling about the payment of court penalties as described by Paragraph 1 of this Article.

(4) The payment of court penalties can be sought until, on the basis of the execution document, execution is sought for the realisation of the non-monetary claim.

(5) The right to court penalties stops from the day of the submission of a proposal for execution as defined by Paragraph 4 of this Article. Forcible collection of court penalties due to this date has to be sought in the sense of the provisions of Article 208 of this Law.

(6) If the execution as defined by Paragraph 5 of this Article is discontinued, the right of the distrainer to court penalties is renewed.

Execution for the collection of awarded penalties

Article 218

(1) On the basis of a legally effective ruling about the payment of court penalties as described by Article 217 of this Law, the court will in the same execution procedure in which it has made this ruling, at the proposal of the creditor as distrainer, make a ruling about execution for the forcible collection of the penalties awarded.

(2) If the distrainee in an appeal against the execution ruling states that he has fulfilled his obligation, the court will accept his appeal in the execution procedure only if its well-foundedness is proved by a public document or a private document that has the significance of a public document. Otherwise it will direct the distrainee to litigation.

Chapter Eighteen

EXECUTION FOR THE SURRENDER AND DELIVERY OF

MOVEABLES

Territorial competence

Article 219

The competence to adjudicate on a proposal for execution for the surrender or delivery of one or more given things or for the delivery of a certain quantity of replaceable [interchangeable] things and for the implementation of the execution belongs to the court in whose territory the things are.

Execution for the sake of the surrender of certain things that are

in the possession of the distrainee

Article 220

(1) Execution for the sake of the surrender or one or more given things that in the possession of the distrainee is done in such a way that the distraining officer of the court takes the things away from the distrainee and hands them over to the distrainer with a receipt.

(2) The manner of Paragraph 1 of this Article will also be used when the things are in the possession of a third person who is willing to give them up to the court distraining officer.

(3) If the third person is not willing to surrender the things, the distrainer can propose to the court that the distrainee's claim on the third person for the surrender of the things be transferred to

him.

(4) The provisions of this Law about execution on a claim to surrender or deliver moveables are applied to the procedure following the proposal as described in Paragraph 3 of this Article.

Execution for the surrender of certain things that cannot be found in the possession of the distrainee or of a third party

Article 221

(1) If the things are not found either with the distrainee or with a third party, the court will in the same procedure, at the proposal of the distrainer, value these things and in a ruling order the distrainee to pay the amount of this value to the distrainer in a given period.

(2) The distrainer can make a proposal as defined by

Paragraph 1 of this Article within eight days of the notice that the things are not found. If the distrainer does not submit this proposal in the period given, the court will discontinue the execution.

(3) On the basis of a ruling as defined by Paragraph 1 of

this article the distrainer can even before it becomes legally effective propose, in the same proposal, execution for the sake of the collection of the amount awarded. This proposal has to be made by the latest within a period of 15 days of the ruling as defined by Paragraph 1 of this Article becoming legally effective.

(4) If no proposal as defined by Paragraph 3 is made in the given period, the court will discontinue the execution and cancel the ruling of Paragraph 1 of this Article and the other works carried out.

(5) The distrainer can, to the proposal for execution from

Article 220 Paragraphs 1 and 2 of this Law, append a proposal for the making of a ruling as defined by Paragraph 1 of this Article. In this case, execution according to Article 220 of this Law and the procedure of this Article will be carried out at the same time. The court can order execution in the sense understood by the provision of Paragraph 3 of this Article and begin its implementation, but the work of liquidation of the seized parts of the property of the distrainee or the transfer of funds from his account cannot be done before it is ascertained that the execution as defined by Article 220 Paragraphs 1 and 2 of this Law could not be carried out.

(6) If the execution from Article 220 Paragraphs 1 and 2 of

this Law are carried out, the court will ex officio discontinue execution and cancel the ruling of

Paragraph 1 of this Article and other works carried out in the sense understood by Paragraph 5 of this Article. In this case the distrainer will bear all the costs caused by the submission of the proposal as defined by Paragraph 5 of this Article.

Execution for the sake of the delivery of interchangeable things that are in the possession of the distrainee or a third party

Article 222

If the obligation to deliver a certain quantity of interchangeable things that are in the possession of the distrainee of a third part is ordered in the execution document, execution will be carried out in the manner prescribed for the surrender of given [certain, ordered] things.

Execution when the interchangeable things are not found with either the distrainee of a third party

Article 223

(1) If the things are not found either with the distrainee nor with a third party, execution will be carried out through an appropriate application of the provisions of Article 221 of this Law. During a valuation of the things the need for them to be procured somewhere else will be taken into consideration.

(2) If during the execution proceeding there should be a change in value of the interchangeable things, the distrainer can require from the court a new valuation and order the distrainee to pay for the difference in the value. In this case the provisions of Article 221 of this Law and Paragraph 1 of this Article are applied in an appropriate way.

The right to compensation for damages

Article 224

The provisions of this chapter do not affect the right of the distrainer to file a suit to claim compensation from the distrainee for the damage done to him because the things were not

surrendered or delivered to him.

Chapter Nineteen

EXECUTION FOR THE SAKE OF THE VACATING AND SURRENDER OF REAL ESTATE

Territorial competence

Article 225

The competence to adjudicate on a proposal for execution for the sake of the vacating and surrender of real estate and to carry out this execution belongs to the court in whose territory the real estate is.

The manner of carrying out the execution

Article 226

(1) Execution for the sake of the vacating and surrender of real estate as defined by Article 225 of this Law is carried out by the court distraining officer removing persons and things from the property and putting it into the possession of the distrainer.

(2) Vacating and surrender of real estate can be started after

the elapse of eight days from the day of the serving of the execution ruling on the distrainee and before it becomes legally effective. If the distrainee could not be properly served at his last known address nor in the way foreseen in the provisions of Article 8 Paragraphs 1 and 2 of this Law, the court will without delay appoint a temporary representative for him, on whom the ruling will be served.

(3) If necessary, the court will sentence persons who hinder the implementation of the execution to a fine or imprisonment according to Article 16 of this Law.

(4) At the request of the court the police and social services are bound to offer all help necessary in the implementation of the work described in Paragraph 1 of this Article.

(5) During implementation of the execution, the provisions of Article 43 of this Law will be applied.

(6) The necessary labour and means of transport for the implementation of the execution must be provided by the distrainer at the request of the distraining officer of the court, and the distrainer must be informed of this at least eight days before the implementation of the execution.

Removal of moveables

Article 227

(1) The moveables that are removed from the real estate are surrendered to the distrainee, and if he is not present to an adult member of his family.

(2) If while the execution works are being carried out there is no person to whom the things can be surrendered, or if these persons will not accept them, the things will be surrendered into the safekeeping of another person, at the expense of the distrainee. The distrainer is bound to secure another person to whom the removed things can be surrendered. The distrainer can himself take over the things of the distrainee for safekeeping.

(3) The court distraining officer surrenders the removed things to the safekeeping of another person or to the distrainer. The court confirms the action of the court distraining officer with a conclusion. The court can subsequently order by a conclusion that the things be confided to some third person and not the person they were surrendered to.

(4) The court will inform the distrainee if it is possible to do so about the surrender of the things to another person and the costs of safekeeping, leaving him a suitable time in which he can seek the surrender of the things after he has paid the costs of safekeeping.

(5) Together with the announcement as defined in Paragraph 3 [sic] of this Article the court will warn the distrainee that, after the elapse of a certain period of time, the things will be sold and that from the sale price the costs of safekeeping and sale will be met.

The sale of moveable things

Article 228

- (1) Ex officio, the court will order the sale of things on behalf of the distrainee, if in the time left for him he does not demand their surrender and reimburse the costs of safekeeping.
- (2) The part of the price achieved by the sale that remains after covering the costs of safekeeping and the sale of the things is deposited with the court or a notary public for the distrainee.
- (3) A ruling on reimbursement of the costs of the execution proceeding as defined by Article 225 of this Law is an execution document on the basis of which the distrainer can propose execution in the same or in a special execution proceeding.

Chapter Twenty

EXECUTION TO OBTAIN A CLAIM ON AN ACTION, A SUFFERANCE OR A NON-PERFORMANCE

Territorial competence

Article 230

If the distrainee is bound according to the execution document to perform a certain action or suffer a certain action or refrain from a certain action, competence to adjudicate on the proposal for execution and the implementation of execution belongs to the court in the territory of which the distrainee is bound to fulfil his obligation according to the execution document.

Execution for the fulfilment of the obligation (to perform) an action that can be done by another person

Article 231

(1) Execution for the purpose of the fulfilment of an obligation to perform an action that can be done by another person as well is done in such a way that the court authorises the distrainee to confide this action to another person or to do it himself at the cost of the distrainee.

(2) In a proposal for execution the distrainer can propose that the court in its ruling order the distrainee to deposit in advance a certain sum of money necessary for the payment of the costs that will arise from the performance of the action by the other person or by the distrainer. The amount of

the sum will be ordered by the court by free estimation, taking into consideration, if possible, an estimate of costs by a person authorised to perform such actions that will be appended to the execution proposal by the distrainer.

(3) A final ruling about the amount of costs as described in

Paragraph 2 of this Article is made by the court at the proposal of the distrainer or the distrainee. If it is subsequently shown that on the basis of the ruling of Paragraph 2 of this Article more funds were obtained from the distrainee than were necessary to cover the costs of doing the work and paying for the execution procedure, the court will, at the proposal of the distrainee, return the difference to the distrainee, if it disposes of the funds obtained from the distrainee, or order the distrainer to return the funds placed at his disposal within a certain period.

(4) On the basis of a ruling as defined by Paragraph 2 of this Article, execution can be proposed even before legal effectiveness, and on the basis of a ruling of Paragraph 3, only after it becomes legally effective.

Execution to fulfil the obligation to perform an action that can be

done only by the distrainee

Article 232

(1) If the action as defined in the execution document can be done only by the distrainee, in the execution document the court will give the distrainee a suitable period of time in which to fulfil his obligation.

(2) In the execution ruling the court will at the same time threaten the distrainee that a certain fine will be imposed on him in accord with the provisions of Article 16 of this Law if he does not fulfil the obligation in the period given him.

(3) If the distrainee does not fulfil the obligation in the period which is given him, the court will, at the proposal of the distrainer, sentence the distrainee to the fine that it has threatened him with. In this order the court will give the distrainee a new period of time in which to fulfil the obligation and threaten him with a still greater fine that he was previously threatened with if he does not fulfil his obligation within this period.

(4) The court will impose fines on the distrainee and threaten new fines while giving new periods for the fulfilment of the obligation until the total amount of fines imposed amounts to ten times the amount of the fine first imposed.

(5) While determining the amount of the fine within the regulation limits, the court will take account of the importance of the action that the distrainee was obliged to perform, and other circumstances of the case.

(6) A distrainee who completes the obligation in the period allotted him is bound without delay to inform the court of this and append reliable proof of this. Reliable proof will be taken to be an authenticated letter from the distrainer that the work has been done, a notary public minute or the minute of a distraining officer of the court, the findings and opinions of an expert that the work has been done, the surrender of the work that has been done in a court deposit or a notary public deposit and so on. If not, it will be considered that the action has not been done.

(7) Before the imposition of a fine the court will allow the distrainee to make a response, and will if necessary hold a hearing for the presentation of proofs.

(8) If an action that can be done only by the distrainee does not depend only on his will (e.g., the creation of a certain work of art and so on) the distrainer has no right to seek execution as according to Paragraph 1 of this Article, only compensation for damage.

Execution to fulfil an obligation to suffer or not perform

Article 233

(1) If on the basis of an execution document a distrainee is bound to suffer the undertaking of some work or refrain from doing it, the court will, at the proposal of the distrainer who claims that the distrainee acts against his obligation, in its ruling order the distrainee to behave in accord with his obligation and threaten him with a fine or imprisonment in line with the provisions of Article 16 of this Law if he continues so to behave. In legal remedy against this execution ruling the distrainee can contest the claim of the distrainer that he has acted against his obligation from the execution document. The court can, if necessary, in response to the legal remedy, order a hearing for the presentation of proof and the evidence of the parties.

(2) At the proposal of the distrainer, after it has ordered that the distrainee, even after the making of the ruling of Paragraph 1 of this Article, continues to act against his obligation, the court will impose the fine or prison sentence on the distrainee that it has previously threatened him with and at the same time threatened him with further fines or prison sentences if he continues to act against his obligation.

(3) If in the execution document the distrainee has been

ordered to act in accord with his obligation under the threat of fine or prison sentence, it will be considered that the conditions for imposing a fine or term of imprisonment as defined in Paragraph 2 of this article have been fulfilled if the distrainee has acted against his obligation after the execution document has become legally effective.

(4) The distrainer is bound to submit a proposal to have the

distrainee fined or imprisoned because he has acted against his obligation even after the order of the court, at the latest within a period of one year after the violation of the obligation. These periods run separately for each individual action against the obligation.

(5) The distrainee will be given the opportunity to respond

to the distrainer's proposal that he be fined or imprisoned. When necessary the court will hold a hearing for the presentation of proof and the evidence of the parties.

(6) At the proposal of the distrainer the court will impose a

fine or prison term on the distrainee and threaten him with new penalties as long as the distrainee does not cease to act against his obligation. The total length of the prison terms which replaced the fines handed down in respect of the same execution document, or the total sum of prison terms to which the same distrainee can be sentenced because of the same execution document cannot exceed six months.

(7) At the proposal of the distrainer, the court will in its

ruling order the distrainee to give security for damage, if the distrainer gives it good grounds for supposing that he would suffer damage by the distrainee continuing to act against his obligation. The amount and the duration of the security will be ordered by the court according to the circumstances of the case. On the basis of a security ruling the court will order execution even before the ruling becomes legally effective.

(8) A proposal for the imposition of an individual fine or

prison sentence can be withdrawn by the distrainer right up to the moment the decision to impose these penalties becomes legally effective. In this case it will be considered as if the proposal for the imposition of these penalties had not been made. The costs of the procedure caused by a withdrawn proposal will be borne by the distrainer, unless the parties have agreed otherwise.

(9) The court will execute the imprisonment or fine ex officio after the legal effectiveness of the ruling by which they were imposed.

(10) The procedure started on a proposal as defined by Paragraph 1 of this Article will be

considered concluded by the legal effectiveness of the execution ruling. A procedure started by a proposal for the imposition of a fine or imprisonment will be considered a new procedure, but a new execution ruling is not made in this procedure, but only the rulings as defined by Paragraphs 2 and 6 of this Article. The security ordered in the sense understood by the provision of Paragraph 7 of this Article remains in force with respect to all the proceedings of Paragraphs 1 , 2 and 6 of this Article, unless by otherwise provided for in the ruling in which the security is ordered.

(11) The court will decide in these proceedings at the proposal of the parties about the costs of each proceeding in the sense understood by the provision of Paragraph 9 of this Article.

Execution for the establishment of a prior state of affairs

Article 234

(1) If because of the behaviour of the distrainee against the obligation of the execution document a change has occurred that is not in accord with the right of the distrainer the court will authorise the distrainer, at his proposal, with the assistance of the distraining officer of the court, to set up the prior state of affairs himself at the cost and danger of the distrainee.

(2) With respect to the deposition of the amount necessary

to cover the costs for the establishment of the prior state of affairs and the determination of the final amount of these costs, the provisions about the costs for the execution of an action that can, as well as by the distrainee, also be done by another person are used.

(3) If the changes described by Paragraph 1 of this Article came into being after the execution document, the court will proceed in accord with the provision of Paragraph 1 of this Article only after it has ordered that the change came into being because of the behaviour of the distrainee.

Repeated disturbance of possession

Article 235

(1) If, on the basis of an execution document made in a procedure about disturbance of possession, execution is carried out, or if the distrainee has voluntarily performed his obligation, and subsequently again commits disturbance of possession, which does not in essence differ from the previous act, the court will at the proposal of the distrainer and on the basis of the same execution document, if such future behaviour is forbidden in it, make a new ruling about execution for the sake of the establishment of the prior state of affairs, if necessary, and threaten the distrainee with the imposition of a fine if he once again commits disturbance of possession. In this case the provisions of Article 233 of this Law are applied in an appropriate manner.

(2) The distrainer can make a proposal for a ruling as defined in Paragraph 1 of this Article in his first proposal for execution on the basis of a ruling because of disturbance of possession in which the distrainee was forbidden to repeat this kind of behaviour.

(3) The distrainer can make a proposal for execution as defined by Paragraph 1 of this Article within a period of thirty days of finding out about the renewed disturbance of possession, and at the latest within a period of a year of the renewed disturbance.

The right to compensation for damage

Article 236

The provisions of this section do not affect the right of the distrainer to seek in a suit compensation for damage done to him because the distrainee acted against his obligation as established in the execution document.

Chapter Twenty One

EXECUTION FOR THE SAKE OF RETURNING AN
EMPLOYEE TO WORK OR EMPLOYMENT

Territorial competence

Article 237

Competence to adjudicate in a proposal for execution on the basis of an execution document by which the employer is ordered to take an employee back to work and to take a member of a body of the distrainee back into employment belongs to the court in whose territory the headquarters of the employer is.

The period for the submission of an execution proposal

Article 238

A proposal for execution as defined by Article 237 of this Law can be submitted within a period of thirty days of the day on which the distrainer acquired the right to submit this proposal.

The manner in which execution is carried out

Article 239

(1) Execution on the basis of an execution document in which the distrainee is ordered to take the distrainer back to work or to employment is carried out by the imposition of fines according to the provisions of Article 16 of this Law.

(2) Fines are imposed according to the provisions of this Law about execution for the realisation of the action that can be done only by the distrainee.

*Compensation for wages in the event of an employee being
returned to work*

Article 240

(1) A distrainer who has made an application to be returned to work or to employment can propose that the court make a ruling in which it will order that the distrainee pay him in lieu of wages the monthly amounts due from the legal effectiveness of the decision until he is back at work again and to order execution for the collection of the amounts awarded.

(2) A proposal for compensation can be joined to a proposal for execution for the sake of going back to work or it can be submitted subsequently up to the end of the execution procedure.

(3) A ruling in which the proposal for compensation is accepted has the force of a ruling by which the existence of the obligation of the distrainee is ordered and the effect of an execution ruling. This ruling can be carried out before it is legally effective.

(4) The distrainee can propose that the ruling of Paragraph 3 of this Article be revoked, if after it is made the circumstances on the basis of which it was made have changed.

(5) The monthly compensation for wages is ordered in the amount that the distrainer would have realised if he had been at work. The monthly compensation includes the payment of taxes and contributions on the basis of wages.

(6) The distrainer also realises his right for compensation in a special proceeding before the competent court.

(7) If the court partially accepts the application for the payment of compensation, it will direct the distrainer to realise the remainder in a procedure before the competent court.

Chapter Twenty Two

EXECUTION VIA THE ENTRY OF A RIGHT IN A PUBLIC

BOOK

Territorial competence

Article 241

(1) Territorial competence for adjudication on a proposal for execution to obtain the right to some real estate via entry into a public book, and for the transfer, limitation or abolishment of a right entered into a public book, belongs to the court that keeps the public book in which the entry has to be made.

(2) Competence for the implementation of the execution is vested in the court that keeps the public book for this real estate.

The way in which the execution is carried out

Article 242

On the basis of an execution document in which the obligation of entry into the public book is ordered, the court will order that the appropriate entry be made in the public book. The entry ordered in the execution ruling is carried out ex officio.

Entry of right of ownership when the distrainee is not entered as

owner

Article 243

When the distrainee is not entered as the owner of the real estate, the entry of the right of ownership of the distrainer can be done if the distrainer, along with the proposal for execution, submits proof in accord with the regulations about land registers that the legal predecessor of the distrainee the person who is entered as the owner.

The enter of another right when the distrainee is not entered as

the owner

Article 244

When the distrainer is authorised by an execution document to seek with respect to the distrainee the entry of some lien or other right on real estate, other than the right of ownership, the distrainer can in the execution proposal require that the right of ownership be entered in favour of the distrainee, and that that the entry of his right be done, if he submits evidence, in accord with the rules of the land registers, that the distrainee has obtained the right of ownership over this real estate.

Entries of rights in other public books

Article 245

The provisions of this chapter are applied in an appropriate manner to the entry of rights in other public books, unless otherwise provided for by a special law.

EXECUTION ON THE DIVISION OF THINGS

Territorial competence

Article 246

Territorial competence for the adjudication on a proposal for the division of jointly owned real estate, a bequest or some other jointly owned thing and for the implementation of the execution belongs to the court in the territory of which the thing is.

Physical division

Article 247

(1) The court will order the physical division of a jointly owned thing if such a division is foreseen in the execution document.

(2) According to the circumstances of the case, individual actions concerning the physical division of the thing are done by the judge or the distraining officer of the court.

(3) The court will summon the participants to be present at the implementation of the division.

(4) If needed, the court will order expert advice.

Division by sale

Article 248

If on the basis of the execution document the jointly owned thing must, for its division, be sold, the sale will be carried out in the manner prescribed by this Law for execution on moveable things or real estate, unless the parties agree differently about individual questions.

Determining the manner of division by a court ruling

Article 249

(1) The court in front of which the execution proceeding is running decides, according to the rules of property law, whether the division will be physical or by sale, unless the division is ordered in the execution document or the parties have agreed about it.

(2) The division will be done by sale if it is ascertained in the execution proceeding that physical division, as ordered by the execution document, is not possible or is possible only with a considerable reduction in the value of the thing.

The costs of the proceeding

Article 250

(1) The costs of the implementation of execution according to the provisions of this chapter are borne by all participants in proportion to the value of their share in the jointly owned thing.

(2) Any party that has brought about special costs is bound to reimburse those parties who had them.

Chapter Twenty Four

REALISATION OF A CLAIM ON THE GIVING OF A DECLARATION OF WILL

Unconditional claim

Article 251

(1) If the distrainee is bound by a decision that has the quality of an execution document to the giving of a declaration of will, it is considered that he has given the declaration when this decision is legally effective.

(2) If the distrainee is bound to give a declaration of will by a court or administrative settlement or by a public notary document, it is considered that he has given this declaration on the day his obligation is due.

Conditional claim

Article 252

If the fulfilment of the claim of giving a declaration of will depends on the fulfilment of some obligation by the distrainer or some other condition, it will be considered that the distrainee has given this declaration when the distrainer has fulfilled his obligation or when the other condition has been fulfilled.

Part Three

SECURITY

Chapter Twenty Five

GENERAL PROVISIONS

The application of provisions about execution

Article 253

The provisions of this law about execution about execution for the attainment of a claim are applied in an appropriate way to the provision of security for a claim according to this part of the Law.

The means of security

Article 254

Only means foreseen by this or some other law can be ordered as means for the provision of security.

Impermissibility of security

Article 255

Security is not allowed on things and rights that according to this Law may not be the subject of execution, unless otherwise provided for in the provisions of this part of the Law.

Competence jurisdiction for determining security ex officio

Article 256

Competence to order and carry out security ex officio is vested in the court that is competent according to the proposal of the proposer of the security, unless differently provided for by the law.

Chapter Twenty Six

SECURITY BY THE FORCIBLE ACQUISITION OF A LIEN ON A PIECE OF REAL ESTATE

Territorial competence

Article 257

(1) Competence to adjudicate on a proposal for the securing of a monetary claim by the forcible acquisition of a lien on a piece of real estate is vested in the court that keeps the public book in which the entry has to be made.

(2) For the implementation of the security the court that keeps the public book for this piece of real estate is competent.

The presumptions of the acquisition

Article 258

On the basis of an execution document in which a monetary claim is ordered the proposer of security has the right to seek security for this claim by the acquisition of a lien on the real estate of the opposer of the security.

The manner of acquiring a lien

Article 259

(1) A lien on real estate entered into the land register is acquired by registration (entry).

(2) During entry of the lien in the land register mention will be made of the executability of the claim for the security of which the entry has been ordered.

(3) If the proposer of the security has already, before the claim has become executable, acquired a lien on the basis of contract on the same piece of real estate for the same claim or if the lien has been prenoted, the court will, at the proposal of the proposer of the security, order that the executability of the claim be noted in the land register.

(4) If the opposer of the security is not entered in the land register as the owner of the real estate, the proposer of the security is bound, with his proposal, to submit a document suitable for the entry of the right of ownership of the opposer of the security.

The effect of entry (registration) and notation

Article 260

(1) The entry of a lien and the notation of the executability of a claim have an effect such that execution can be carried out on the real estate with respect to a third person who acquires this real estate subsequently.

(2) In a case as defined by Paragraph 1 of this Article execution on real estate will be ordered against the person who is entered as owner, on the basis of an execution document on the basis of which the lien was entered in the land register and the executability noted and of an extract from the land register from which it can be seen that the person was entered as owner after the entry of the lien and the notation of the executability.

Chapter Twenty Seven

JUDICIAL AND PUBLIC NOTARY PROVISION OF SECURITY ON THE BASIS OF AN AGREEMENT BETWEEN THE PARTIES

*1. Judicial provision of security of a monetary claim by the
acquisition of a lien on the basis of an agreement between the
parties*

Territorial competence

Article 261

Competence to adjudicate on a proposal for the provision of security of a monetary claim by the proposer of security by the acquisition of a lien on things and the rights of the opposer of the security and for the implementation of the security is ordered by appropriate application of this rules of this Law about territorial competence in execution procedures for the collection of a monetary claim on individual kinds of subjects of execution.

A proposal for security

Article 262

For the purpose of the provision of security for a monetary claim of the proposer of the insurance by the acquisition of a lien on certain subjects of security, the proposer of security and the opposer of security can consentually seek that the court order and carry out to the advantage of the proposer of security:

1. registration of a lien on real estate of the opposer of the security,
2. seizure of real estate not entered in the land register according to the rules by which execution is carried on this real estate for the collection of a monetary claim,
3. the seizure of the moveables of the opposer of the security,
4. the seizure of the monetary claims of the opposer of the security,
5. the seizure of part of the earnings of the opposer of the security on the basis of a contract about work or employment,
6. the seizure of a part of a pension, disability pension or compensation for lost earnings,
7. the seizure of a claim that the opposer of the insurance has on an account at a bank or on a savings account (book),
8. the seizure of a claim that moveables be surrendered or delivered or that real estate be surrendered,
9. the seizure of other property or material rights,
10. the seizure of share certificates and other securities and confiding them to safekeeping,
11. the seizure of registered shares and equity or sole equity in companies.

A hearing about a proposal and agreement of the parties

Article 263

(1) At the proposal of one or both parties the court will set a hearing at which it will enter in the minutes an agreement of the parties about the existence of a claim of the proposer of the insurance and its due date and their agreement that by actions of provision of security as defined by Article 262 of this Law, depending on the subject of the security, this monetary claim be secured by the acquisition of a lien. In the agreement the parties can order the valuation of the subject of security, and in the execution procedure this will be the basis for the determination of the value of the subject of the security for its liquidation.

(2) The signed minutes of an agreement as defined by Paragraph 1 of this Article has the force of a court settlement.

(3) A monetary claim as defined by Paragraph 1 of this Law can also be expressed in terms of the Kuna equivalent of a certain amount ordered in a foreign currency.

(4) The parties can secure a non-monetary claim of the

proposer of the security as well by the stipulation of its monetary equivalent in the agreement as defined by Paragraph 1 of this Article. The security will be stipulated and carried out for the securing of the monetary equivalent of a non-monetary claim. Unless the parties in the agreement as defined in Paragraph 1 of this Article stipulate differently, the non-monetary claim does not cease with the making of this agreement.

(5) When the non-monetary claim as defined by Paragraph 4 of this Article becomes due the proposer of the security may, according to his own choice, seek execution for the realisation of the non-monetary claim or execution for the collection of its nonmonetary (sic) equivalent. If in an execution procedure for the collection of a monetary equivalent of a non-monetary claim the proposer of the security is paid at least in part, the whole of his non-monetary claim ceases and it will be considered that the proposer of the security has against the opposer of the security only a monetary claim that is equivalent to the unpaid part of the monetary equivalent of the non-monetary claim.

Stipulation and implementation of the security

Article 264

(1) On the basis of an agreement as defined by Article 263 of this Article, the court will make a ruling ordering the measures of security as defined by Article 262 of this Law and undertake all the necessary actions for their implementation, in accord with the provisions of this Law about execution actions by which, in the execution for the collection of a monetary claim, a lien is acquired on certain subjects of execution.

(2) A ruling as defined by Paragraph 1 of this Law has the force of a security ruling.

(3) With the implementation of a security action as described by Paragraph 1 of this Article the proposer of the security acquires a lien on a certain subject of security.

The application of other provisions of this Law

Article 265

On the basis of an agreement between the parties, the provisions of Articles 254 and 255 of this Law are applied in an appropriate way to the security of a monetary claim by the acquisition

of a lien on the real estate of the opposer of the security

Publication of an advertisement

Article 266

(1) The court will publish an advertisement about the implementation of security for the acquisition of a lien on real estate not registered in the land register and on other subjects of security as defined by Article 262 of this Law in *Narodne novine* and where necessary in other media.

(2) The advertisement will mention the court that is carrying out the security, the number of the case, the parties, the claim that is secured. The subject of security has to be defined in such a way that its identity can be ascertained without difficulty. If the subjects of security are specially marked during the implementation of the security, the marks through which the marking was done will also be mentioned.

(3) The parties are bound to give an advance on the costs of the advertisement within the period given them by the court. If the parties do not give an advance on the costs in this period, the court will discontinue the security procedure and will cancel the works carried out.

Stipulation and implementation of execution

Article 267

(1) At the proposal of the proposer of the security the court will, when it orders that the agreement of the parties as defined by Article 262 of this Article has become executable, for the payment of the secured monetary claim of the proposer of the security, make a ruling ordering and carry out execution on the subjects (items) of the opposer of the security on which a lien was acquired on the basis of the agreement of the parties, according to the provisions of this Law about Execution on the things or rights of the distrainee.

(2) A ruling as defined by Paragraph 1 of this Article has the force of an execution ruling.

(3) The notation of execution on real estate is legally effective from the day of the registration of the lien on the property in the security process.

(4) In an execution procedure for the collection of a monetary claim secured by a lien according to the provisions of this chapter the actions by which the lien was acquired will not be repeated but will have legal effect from the day on which the lien was acquired in the security procedure.

(5) In the execution procedure as defined by Paragraph I of this Article the provisions of this Article about the protection of the distrainee, exemption for execution and the restriction of

execution on certain items of execution will not be applied.

*Security by the acquisition of a right on the things and rights of
other persons*

Article 268

(1) If the other person is in agreement that a lien be acquired on his thing or right for the purpose of the securing of the monetary claim of the proposer of the security, this person will be summoned to a hearing as defined by Article 263 of this Law, and the court will enter into the minutes of the hearing, in the agreement of the parties about the security, his declaration about this agreement.

(2) The signed minute as defined by Paragraph 1 of this Article has the force of a court settlement with respect also to the person who has agreed that his thing or right may have a lien acquired on it.

(3) A lien on the item of a third person is acquired in the same way that a lien is acquired on the item of the opposer of the security.

(4) On the basis of the minute as defined by Article 1 of this Article the proposer of the security can, for the collection of the secured claim, directly propose execution against the person from this provision on the item on which a lien was acquired for the purpose of securing his claim.

(5) The provision of Article 267 of this Law will be applied in an appropriate way in a case as defined by Paragraph 4 of this Article.

*2. Security at a public notary of a monetary claim by the
acquisition of a lien*

*Acquisition of a lien on the basis of a document made at a public
notary*

Article 269

(1) An agreement of a creditor and a debtor that in its contents coincides with the agreement of the parties as described by Article 263 Paragraph 1 of this Law, made in the form of a document at a public notary or a solemnised private document, that also contains the declaration of the debtor that he is in agreement that, for the security of a certain monetary claim of the creditor, a lien may be acquired on some item of his by actions as defined by Article 262 Points 2 to 11 of this

Law, which will be performed by a notary public instead of a court, are equivalent in their effects with the minute as described by Article 163 Paragraph 2 of this Law.

(2) Actions as defined by Article 262 Points 2 to 11 of this Law through which a lien is acquired on the items of the opposer of security are undertaken by the notary public in the same way as envisaged by the law for them to be undertaken by the court, with the provision that the notary public can undertake all actions for the performance of which the co-operation of the parties is necessary only with the agreement of the parties.

(3) Actions of a notary public undertaken without the agreement of the parties in cases in which for their undertaking the collaboration of the parties is necessary (for example, a seizure schedule of real estate not entered in the land register, a seizure schedule of moveables, a seizure schedule of share certificates and other securities and so on) do not have any legal effect.

(4) A notary public will compose a minute to be signed by both parties about any action that requires the collaboration of the parties. If the parties have not signed a minute, it will be assumed that they were not in agreement with the undertaking of the action. The signed minute has the effect of an agreement by which the legal effect of the action undertaken is admitted.

(5) Which notary public it is that is authorised to undertake individual security actions will be evaluated according to the rules about the official area and headquarters of notaries public.

A document made at a notary public as a basis for court security

Article 270

If the debtor, after the composition of a document at a notary public or after the solemnisation of a private document as described by Article 269 Paragraph 1 of this Law declines to cooperate with the implementation of the actions by which in the sense understood by Article 169 Paragraph 2 of this Law the lien is supposed to be acquired, the creditor may, on the basis of these documents ask the court to carry out the security actions. In this case, the provisions of Article 267 of this Law are carried out in an appropriate way.

Application of provisions about court security

Article 271

(1) The provisions of Articles 262 to 268 of this Law will be applied in an appropriate way to security made with a notary public, except for the provision of Paragraph 1 Article 167 of

this Law about a security ruling.

(2) A debtor can realise his objections against security made at a notary public in a special suit in which he will rebut the agreement as defined by Article 269 Paragraphs 1 and 4 of this Law.

(3) Third persons can realise their objections against security made at a notary public in a procedure in front of a court as defined by Article 272 of this Law, according to the rules that are good when these objections are made against court security as defined by Part I of this Chapter.

Serving documents on the court

Article 272

(1) A notary public is bound, with respect to any act of security carried out in the sense understood by the provisions of this section, to serve the court a copy of the notary public document or the solemnised private document as described by Article 269 of this Law to the court, and authenticated copies of all the other documents from the file.

(2) The court as defined by Paragraph 1 of this Article is the court which would be competent for the security if it had not been confided to the notary public.

Chapter Twenty Eight

COURT AND NOTARY PUBLIC SECURITY VIA THE TRANSFER OF OWNERSHIP OF THINGS AND THE TRANSFER OF RIGHTS

1. Court security

Territorial competence

Article 273

Territorial competence to adjudicate on a proposal for the provision of security for a monetary claim by the transfer of the ownership of things and the transfer of rights is ordered by the appropriate application of the provisions of this Law about the territorial competence of the court in execution procedures for the realisation of monetary claims on individual kinds of subject of

execution.

Security by transfer of ownership and transfer of rights

Article 274

(1) One or both parties can ask the court to set a hearing and at this hearing enter into the minute their agreement that, so as to provide security for a monetary claim of the proposer of the security, the ownership of some thing of the opposer of the security is transferred to the proposer of the security, or for the same reason some right of the opposer of the security is transferred to the proposer of the security. In the agreement there must be the entry of a definition about when the claim that is secured is due, or about how the due date is to be defined. The opposer of the security does not have to be the person on whom the proposer of the security has the claim which is being secured.

(2) The agreement as defined in Paragraph 1 of this Article can refer to the securing of a non-monetary claim, but in this case the monetary equivalent of this claim has to be defined in the agreement. After the due date of the non-monetary claim the proposer of the security may choose whether he will seek execution for the forcible realisation of the non-monetary claim or, according to the provisions of this Chapter, realise his rights as if the transfer of ownership on the thing or the transfer of the right were done for the securing of the monetary equivalent of the non-monetary claim.

(3) The minute referred to in Paragraph 1 of this Article has the same effect as a court settlement.

(4) If by an agreement as defined in Paragraph 1 of this Article there is a transfer of the right of ownership of real estate registered in a land register, the agreement should contain a declaration by the opposer of the security that he agrees that this transfer can be done in the land register directly on the basis of the agreement.

(5) On the basis of a minute as defined by Paragraph 1 of this Article and the declaration of the opposer of the security as defined by Paragraph 4 of this Article, the parties can seek transfer of the right of ownership of real estate registered in the land register, with a note that the transfer was done for the sake of security.

(6) The proposer of the security becomes the owner of real estate not registered in the land register or of moveables on the signing of the minute as defined by Paragraph 1 of this Article.

(7) There can also be the entry into the minute as defined by Paragraph I of this Article of the declaration of the opposer of the security that he agrees that the proposer of the security may

directly on the basis of this minute seek forcible execution against him for the surrender of the real estate or the moveables after the claim that is secured becomes due. A minute that contains this kind of declaration is considered an execution document.

(8) It will be deemed that the transfer of a right has been accomplished by the signing of the minute as defined by Paragraph 1 of this Article.

(9) An advertisement will be placed in *Narodne novine* about the transfer of the ownership of real estate not registered in the land register and about moveables and about the transfer of a right, which advertisement will make mention of the court placing the advert, the number of the case, the parties, the real estate or moveables the ownership of which has been transferred, or the rights that are transferred, and the information that the transfer has been done for the sake of security. The real estate, the moveables and the rights will be designated in such a way that their identity can be ascertained without any difficulty.

Other effects of the transfer

Article 275

(1) Unless otherwise ordered an agreement as defined by Article 274 Paragraph 1 of this Law, the opposer of the security is entitled to continue to use the thing the ownership of which is transferred to the proposer of the security, and the proposer of the security is not authorised to alienate or burden the thing.

(2) If the proposer of the security does alienate or burden the thing although he is not authorised to do so by the agreement as defined by Article 274 Paragraph 1 of this Law, this kind of alienation or burdening is valid in law, and the proposer of the security is liable to the opposer of the security for the damage that he has thus caused him.

(3) If in a case as described by Paragraph 2 of this Article

the proposer of the security alienates a thing, he is bound to pay sales tax on the transfer of the property of the thing from the opposer of the security to himself. The time for the payment of the tax is calculated from the day of the alienation of the thing.

(4) Unless otherwise provided for in the agreement as defined by Paragraph 1 Article 274 of this Law, the proposer of the security is bound:

1. to undertake measures necessary for the preservation of the transferred claim,

2. to collect interest or any other occasional claims. Such amounts collected are deducted from the costs the collection of which the proposer of the security has the right to, then from the interest owed him, and finally from the principal,

3. to collect a transferred claim or to receive its fulfilment, after it becomes due. By fulfilment of the transferred claim, the proposer of the security acquires the ownership of the things by the surrender of which the claim is satisfied. If the item of the transferred claim is money, the proposer of security is bound at the request of the opposer of security to deposit the amount collected with a court or a notary public, but if his secured claim is already due, the proposer of security can keep the amount of money owed, and surrender the rest to the opposer of security.

(5) Unless otherwise ordered by the agreement as defined in Paragraph 1 of this Article, the proposer of insurance is not authorised to alienate or burden the right that is transferred. But if he does nevertheless alienate or burden it, the alienation or burden is valid, but the proposer of security is liable for the damage that he has thus caused the opposer of security. A proposer of security who alienates a right when he is not authorised to do so by the agreement as defined in Paragraph 1 of this Article is bound to pay sales tax on the transfer of the right from the opposer of security to himself, if this tax is paid usually.

(6) The debtor of some claim that is transferred to the proposer of security for the purpose of security may make the same objections to the proposer of security that in the case of the cession of the claim the debtor of the claim could make to the receiver.

(7) Regulations about sales tax on real estate or moveables are not applied to the transfer of ownership for the sake of security or for the return of ownership after the payment of the claim of the proposer of security. This is also good for the transfer and return of rights.

(8) The circumstance that the alienation or burdening of things or rights that the proposer of security was not authorised to do are valid does not exclude the criminal liability of a proposer of security who is a physical [private] person or the responsible person in a legal person [who is a] proposer of security for breach of trust.

The right to the return of property or rights - eliminatory right

Article 276

(1) If the opposer of security fulfils his obligation to the proposer of security within the time limit, the proposer of security is bound to return to him the ownership of the things or transfer back again the acquired right, without delay.

(2) In the event of forcible execution against or bankruptcy of the proposer of security the opposer of security has an eliminatory right on the things and rights that he transferred to the proposer of security for the purpose of security, unless execution is carried out for the purpose of the satisfaction of the claim of a third person on the proposer of security that the proposer of

security has secured by a lien on the transferred thing or right.

The rights of the proposer of security in the event that the opposer of security is late

Article 276

(1) If the opposer of security is late in satisfying the secured claim, the proposer of security is authorised to seek from the opposer of security, via a notary public, that he inform him within fifteen days, also via a notary public, whether he wants the thing the ownership of which has been transferred to be sold or the right that has been transferred to be liquidated by the notary public.

(2) In the information defined in Paragraph 1 of this Article the opposer of security is bound to determine the lowest price at which the thing can be sold or the right liquidated, to appoint a notary public who will undertake the sale of the thing or liquidate the right and append his statement that he is willing to undertake the sale or the liquidation and that the costs of the sale or the liquidation be advanced to him and that from the amount obtained by the sale or the liquidation the claim of the proposer of security will be paid together with interest and costs and sales tax. The lowest price determined by the opposer of security may not be lower than the secured claim, to which must be added the interest and the costs of the proposer of security which can be predicted to be payable up to the expiry of the time in which the notary public must sell the thing or liquidate the right, as well as the sales tax which it can be predicted must be paid.

(3) After he has received the information with the annexes as described by Paragraph 1 of this Article, the proposer of security is bound within a period of fifteen days to authorise the notary public as defined by Paragraph 2 of this Article to sell the thing or liquidate the right, adhering to the conditions defined in the information of the opposer of security. The proposer of security is bound to undertake all other actions at the request of the notary to make it possible for the things to be viewed or the contents of the rights to be known. Otherwise he will be liable to the opposer of security for damages.

(4) If the notary public does not manage to sell the thing or liquidate the right within three months from the day when the proposer of security has authorised him to do so, it will be considered that the opposer of security has given up his right to seek the sale of the thing or the liquidation of the right.

(5) If the opposer of security does not act according to the provisions of Paragraphs 1 and 2 of this Article, or if the notary public does not manage to sell the thing or liquidate the right in accord with the provision of Paragraph 4 of this Article, it will be deemed that the proposer of security is the legitimate owner of the thing or the legitimate possessor of the right transferred to him, for a price that is equivalent to the amount of the secured claim plus interest, costs and sales tax, unless the proposer of security within fifteen days of the expiry of the period as defined by Paragraph 1 of this Article informs the opposer of security via a notary public that he does not wish to keep the thing or the right instead of the payment of the secured claim.

(6) If in a case as defined by Paragraph 5 of this Article the proposer of security becomes the legitimate owner of a thing or the legitimate possessor of a right, the secured claim will be deemed paid when the proposer of security becomes the legitimate owner or the legitimate

possessor [lit.: haver].

(7) If the proposer of security informs the opposer of security that he does not want to keep the thing or right instead of payment of the secured claim, he is authorised to pursue his claim against the opposer of security independently of the of the authority he has according to this provision.

(8) If the proposer of security informs the opposer of security that he does not wish to keep the thing or right in lieu of the payment of the secured claim, he is authorised to sell the thing or liquidate the right himself, via a notary public or persons authorised to sell things or liquidate rights. While the sale of the thing or the liquidation of the right is going on the proposer of security is bound to behave with the care of a good steward and account for his behaviour to the opposer of security. If through the sale of the thing or the liquidation of the right in this way he does not manage to collect his claim in its entirety, he is entitled to seek execution against the opposer of security on the basis of the minute as defined by Article 274 of this Law for the payment of the remaining part of his claim.

(9) The dates for the registration of the transfer of the ownership or right in connection with the payment of the tax are counted as follows:

1. in a case as defined by Paragraph 3 of this Article from the day when the notary public sells the thing or liquidates the right,

2. in a case as defined by Paragraph 5 of this Article from the day when the proposer of security becomes legitimate owner or legitimate possessor of the right,

3. in a case as defined by Paragraph 8 of this Article from the day when the notary public or the person authorised to sell things or liquidate rights sells the thing or liquidates the right.

(10) If the proposer of security realises his claim differently, and not in a way envisaged by the provisions of Paragraphs 3, 5 and 8 of this Article, he is bound to return the thing or the right to the opposer of security without delay. In the event of a partial satisfaction of the claim the proposer of security is bound to return some of the things or part of the right to the opposer of security if this is possible. [sic]

The appropriate application of the provisions of this section to the transfer of shares or equity or sole equity a company

Article 278

(1) The provisions of this section are applied in an appropriate manner to the transfer of

registered shares, of share certificates and the transfer of equity or sole equity in a company.

(2) A share certificate, equity or sole equity is transferred by the making of an agreement as defined by Article 274 Paragraph 1 of this Law. The court will without delay inform the company about every transfer for the purpose of the implementation of the transfer in the appropriate books of the company, with a note that the transfer has been done for the purpose of security.

(3) By the transfer of the share, or equity or sole equity for the purpose of security, until the proposer of security becomes the legitimate possessor of the share, equity or sole equity, or until the share, equity or sole equity are sold or otherwise alienated, the transfer does not lose the right to vote nor to a dividend, unless otherwise provided for by the agreement as defined by Article 274 Paragraph 1 of this Law.

2. Security with a notary public

Appropriate application of the provisions about security with a court

Article 279

(1) The provisions of Articles 274 to 278 of this Law are applied in an appropriate way to the securing of a claim by the transfer of the authority on a thing, the transfer of a right or a share, equity or sole equity in a company.

(2) A document [drawn up by] a notary public or a solemnised private document with an appropriate content can be substituted for the agreement as defined by Article 274 Paragraph 1 of this Law.

(3) A notary public will undertake only those actions by which there is a transfer of the ownership of the thing or the right agreed on by the parties.

(4) Which notary public is authorised to undertake individual works of security is ordered according to the rules about the official headquarters and area of a notary public.

(5) The rules of Article 271 Paragraphs 2 and 3 of this Law are applied in an appropriate way to security that is carried out through a notary public.

Chapter Twenty Nine

SECURITY WITH PRIOR EXECUTION

Territorial competence

Article 280

Territorial competence to adjudicate about a proposal for prior execution and for the implementation of this execution is vested in the court which would be competent on the basis of an execution document.

Presumptions for ordering execution

Article 281

In order to provide security for a non-monetary execution that cannot be secured by notation in a public book the court can, on the basis of a verdict reached in a civil suit, order prior execution if the distrainer gives good grounds for the supposition of the danger that because of a delay in execution until the verdict becomes executable the execution will be made impossible or much more difficult and if he gives security for any damage that the distrainee might suffer because of this kind of execution.

The procedure resulting from a proposal for prior execution

Article 282

(1) Before it decides about the proposal of the distrainer, the court will hold a hearing for discussion about the proposal and the security.

(2) If the parties do not come to an agreement about it, the court will, if it accepts the proposal for execution, at its own evaluation order the amount of the security and the period in which it has to be given. Until the security is given, the execution cannot be proceeded with.

(3) If the security is not given in the defined time, the court will discontinue the execution.

(4) If the special circumstances of the case require it, the court can order execution and the amount of the security and start with the implementation of the execution as soon as the security is deposited, even before the distrainee is given a chance to make his statement about the proposal.

(5) At the request of a distrainee who gives it good grounds for supposing that because of execution he would suffer irreparable or almost irreparable harm the court can deny the proposal for execution, or condition its denial on the giving of suitable security in a certain period. If the distrainee does not give this security in the given time, the court will make an execution ruling.

(6) In response to an objection of a distrainee who was not give a chance to make a statement about a proposal of a distrainer, the court can discontinue execution if through its

implementation the distrainee might be caused irreparable or almost irreparable damage, or condition discontinuance on the provision of security within a certain period. If the distrainee does not give the security in the period, it will be deemed that he has withdrawn his objection.

Chapter Thirty

THE PROVISION OF SECURITY THROUGH PRIOR MEASURES

Territorial competence

Article 283

Territorial competence to adjudicate on a proposal for the provision of security by a prior measure and the implementation of such a measure is vested in the court that would be competent for execution on the basis of the execution document on the basis of which the security is proposed.

The presumptions for the ordering of prior measures

Article 284

(1) A prior measure is ordered for the security of a monetary claim on the basis of:

1. a decision of a court or administrative body that has not become executable,

2. a settlement made before a court or an administrative body, if the claim ascertained in it is still not due,

3. a public notary document, if the claim ascertained in it is still not due.

(2) the court will, on the basis of a document as defined by Paragraph 1 of this Article, order a prior measure if the proposer of security gives it good grounds for supposing a danger that without this security it would be impossible or much more difficult to realise the claim.

Presumed danger

Article 285

(1) It will be deemed that a danger in the sense understood by the provision of Article 284 of this Law exists if the ordering of a prior measure is proposed on the basis of:

1. a payment order or an execution ruling on the basis of a trustworthy document against which an objection has been made within the time allowed for one,

2. a verdict made in a criminal proceeding about a property law proceeding application against which a retrial is possible,

3. a decision that has to be executed abroad,

4. a verdict on the basis of an admission against which an appeal has been made,

5. a settlement as defined by Article 248 Paragraph 1 Point 2 of this Law which is rebutted in a way foreseen by the law,

6. a notary public document as defined by Article 284 Paragraph 1 Point 2 of this Law which is rebutted in a way foreseen by the law.

(2) In cases as defined by Paragraph 1 points 4 and 5 of this Article the court may, at the proposal of the opposer of security, condition the prior measure on the proposer's giving security for any damage that the opposer of security might suffer by the order of the prior measure.

The securing of a claim the instalments of which are not yet due

Article 286

(1) Security by a prior measure for instalments not yet due of a claim on the basis of legal maintenance, a claim on the basis of damages for lost maintenance because of the death of the giver of maintenance or a claim on the basis of damages for lost health or lost or reduced capacities to work is ordered only for instalments that will become due in one year.

(2) In cases as defined by Paragraph 1 of this Article it is presumed that the danger exists if execution has already been ordered against the opposer of security for the collection of an instalment that is due or if such execution has been proposed.

Kinds of prior measure

Article 287

(1) As prior measures, the court can order:

1. the noting of a lien on real estate of the opposer of security or on some right registered on real estate,
2. some one of the security measures as defined by Article 262 Points 2 to 10 of this Law,
3. prohibition on the legal person that undertakes payments transactions to pay out to the opposer of security or any other person at the order of the opposer of security, any monetary sum from his account if a prior measure has been ordered on the sum.

(2) The court can, at the proposal of the proposer of security, order, with respect to the circumstances of the case, two or more prior measures if necessary. The court can, if the conditions as foreseen in this Law are fulfilled, order, alongside a prior measure, some temporary measure.

(3) By the implementation of a prior measure, the proposer of security acquires a lien on the subject of security.

(4) The sum of money belonging to the opposer of security at the legal person that undertakes payments transactions with respect to which a ban on payment has been made cannot be transferred from this account while the ban lasts, except for the payment of the secured claim.

The sale of seized moveables and the transfer of the claim of the opposer of security

Article 288

(1) The court will order the sale of seized moveables that are subject to rapid deterioration or if there is a danger of there being a considerable drop in the price of these things.

(2) The sale of scheduled things will be done according to the provisions of this Law about execution on moveables.

(3) If the prior measure is ordered by the seizure of a claim, the court can, at the proposal of the proposer of security, order that the seized claim is transferred to the proposer of security for collection or some other realisation, in a case in which there is a danger that this claim, because of some delay in its realisation, will not be able to be collected or otherwise realised or that the right to compensation with respect to third persons will be lost.

(4) The amount that is obtained by a sale of the moveables or collection of the claim will be kept in a court or notary public deposit until the prior measure is discontinued or until the proposer of security suggests execution, at the latest thirty days after the claim becomes executable. Other

benefits gained by the realisation of the claim will be deposited with the court or the notary public, if this is possible, or their safekeeping in some other manner until the discontinuance of the prior measure, or until the proposer of security proposes execution, but at the most for thirty days after the claim becomes executable.

A ruling ordering a prior measure

Article 289

(1) In a ruling ordering a prior measure, among other things, the following have to be stated: the amount of the claim that is being secured, with interest and costs, the security measure and the time for which it is being ordered.

(2) The time for which a prior measure is ordered can last at most for fifteen days after the conditions for execution are in existence.

(3) If the time as defined by Paragraph 1 of this Article expires before the decision on the basis of which the prior measure is ordered becomes executable, the court will, at the proposal of the proposer of the security submitted to the court before the end of the time for which the measure was ordered, extend the time on condition that the circumstances under which the measure was ordered have not changed.

(4) A ruling ordering a prior measure does not have to be explained.

Cancelling a prior measure

Article 290

(1) At the proposal of the proposer of security the court will discontinue the proceeding and cancel the actions carried out:

- 1 . if the opposer of security deposits with the court the due sum of the claim that is being secured, with interest and costs;
2. if the opposer of security gives it ground for supposing that the claim had already been collected or adequately secured at the time when the ruling ordering the prior measure was made;
- 3, if it has been ascertained with legal effectiveness that the claim did not arise or has ceased;
4. if the decision on the basis of which the prior measure was ordered is revoked in connection with legal remedy, or if the court settlement or notary public document on the basis of which the prior measure was ordered is declared not in force;

(2) The court will discontinue a proceeding and cancel the actions undertaken if in a period of fifteen days from the day of the expiry of the time for which the prior measure was ordered the

conditions for forcible execution are not satisfied.

(3) In cases as described in Paragraph 1 Points 2, 3 and 4 and Paragraph 2 of this Article, the proposer of security is bound to recompense the opposer of security for costs incurred by the ordering and implementation of the prior measure.

(4) In cases as described by Paragraph 3 of this Article the opposer of security can seek compensation for damage caused in the security proceeding from the proposer of security at the latest within a period of thirty days from the day the proceeding is finished, and after this in a civil suit.

(5) In the security proceeding, the existence and the amount of the damage as described in Paragraph 4 of this Article is determined by the court in a ruling, at the proposal of the opposer of security.

(5) An appeal against a ruling as defined by Paragraph 5 of this Article delays its execution.

Discontinuance in a case in which the proposer of security does

not seek execution

Article 291

If the presumption for execution for the collection of a secured claim is fulfilled before the expiry of the time for which the prior measure was ordered the court will, at the proposal of the opposer of security, discontinue the proceeding and cancel the actions carried out if the proposer of security does not submit a proposal for execution in a period of fifteen days from these conditions coming into existence.

Chapter Thirty One

TEMPORARY MEASURE

1. General provisions

Territorial competence

Article 292

(1) Before the filing of a civil suit or any other civil proceeding about a claim that is secured, competence to adjudicate on a proposal for security via temporary measure is vested in the court that was territorially competent to adjudicate on the proposal for execution. Competence to implement the temporary measure is vested in the court that was territorially competent for the implementation of the execution.

(2) After a procedure as defined in Paragraph 1 of this Article is started, competence to adjudicate on a proposal for security via a temporary measure is vested in the court before which the procedure was started. If justified by the circumstances of the individual case, in this case too the proposal can be submitted to the court as defined by Paragraph 1 of this Article.

(3) The court that was competent to adjudicate on a proposal for execution on the basis of an execution document drawn up in an administrative procedure is also competent to adjudicate on a proposal for the ordering of a temporary measure after the close of that procedure.

A proposal to have temporary measure ordered

Article 293

(1) A temporary measure can be proposed before the starting of and during the course of a judicial or administrative proceeding and after the close of these proceedings, until execution is carried out.

(2) In a proposal to have a temporary measure ordered the proposer of security has to state a request in which he will exactly specify the claim the security of which he is asking for, state which measure he is asking for and how long it is to run and, where necessary, the means of security by which the temporary measure will be realised and the subject of the security, with an appropriate application of the rules of this Law about the means and subjects of execution. The proposal has to state the facts on which the application for the ordering of the temporary measure is based and offer proof to back up these allegations. The proposer of security is bound to enclose these proofs, where possible, together with the proposal.

A ruling ordering a temporary measure

Article 294

(1) In a ruling ordering a temporary measure the court will, if it is necessary with respect to the kind of measure and the aim to be achieved by it, also order, at the proposal of the proposer of security, means by which it will be forcibly realised and the subject of security, with appropriate application of the rules of this Law about ordering the means and subjects of execution in an

execution ruling.

(2) If in order to realise the order or the prohibition stated in the ruling ordering temporary measure it is necessary subsequently to order the means of enforcement as described by Paragraph 1 of this Article or to means already ordered add new means or replace them with others, the proposer of security can propose, in the same procedure, that these means be ordered on the basis of the orders or prohibitions already stated.

(3) Rulings ordering a temporary measure have the effect of an execution ruling.

(4) The provisions of this Law about an execution ruling are applied in an appropriate way to rulings as described in Paragraph 2 of this Article.

(5) Rulings as defined by Paragraphs 1 and 2 of this Article have to be explained.

(6) In the case of a temporary measure being ordered ex officio the court will apply the provisions of Paragraphs 1 to 4 of this Article in an appropriate manner,

The permissibility of a temporary measure

Article 295

(1) A temporary measure can also be ordered for the security of claims not due and conditional claims.

(2) A temporary measure is not permissible if there are conditions for the ordering of a prior measure through which the same aim of security can be achieved.

2. A temporary measure to secure a monetary claim

The presumptions for the ordering of a temporary measure

Article 296

(1) A temporary measure for the security of a monetary claim can be ordered if the proposer of security gives good grounds for supposing the existence of a claim and the danger that without such a measure the opposer of security will prevent or make much more difficult the collection of the claim by alienating his property, concealing it or disposing of it in some other way.

(2) The proposer of security does not have to prove the danger as defined by Paragraph 1 of this Article if he gives good grounds for supposing that the opposer of security would suffer only

inconsiderable damage by the proposed measure.

(3) It is deemed that the danger as defined by Paragraph 1 of this Article exists if the claim is to be realised abroad.

Kinds of temporary measure for the security of a monetary claim

Article 297

(1) For the security of a monetary claim every measure can be ordered through which the aim of such security can be achieved, but in particular:

1. a ban on the opposer of security alienating or burdening moveables, taking away these things and confiding them to the safekeeping of the proposer of security or a third person,
2. confiscating and depositing cash, securities and so on with the court or a notary public,
3. forbidding the opposer of security to alienate or burden his real estate or real rights that are registered on real estate in his favour, with a note of this prohibition in the land register,
4. forbidding a debtor of the opposer of security voluntarily to fulfil his obligation to the opposer of security and forbidding the opposer of security to accept the fulfilment of this obligation, or to dispose of his claims,
5. an order to the legal person that undertakes payments transactions business to refuse to pay to the opposer of security or to some third person on the basis of an order of the opposer of security the sum of money from a debtor's account for which a temporary measure has been ordered,

(2) A lien cannot be acquired by a temporary measure.

(3) Prohibitions as defined by Paragraph 1 of this Article are considered to be carried out when they are served on the person to whom they are issued, or on the land register department of the court.

(4) Alienation and burdening of moveables as described by Paragraph 1 Point 1 of this Article done by the opposer of security against the ban are without legal effect, unless it is appropriate to apply the rule about the protection of the good faith acquirer.

(5) The effect of the notation of a ban as described by Paragraph 1 Point 3 of this Article lies in the fact that the proposer of security can propose execution for the collection of his claim when it becomes executable on real estate registered in the land register or on real estate not registered in the land register or on some right registered on some real estate, to which the ban refers, irrespective of whether after this ban a third person on the basis of the voluntary disposition of the opposer of security has acquired and registered in the land register some right of his. The proposer of security can propose execution on real estate or some right registered on real estate directly against the person who is registered as the owner of the real estate or the bearer of the real

right registered on the real estate, on the basis of the execution document by which his right against the opposer of security is ordered and for the security of which the prohibition is noted and on the basis of evidence that the person against whom execution is proposed acquired the ownership of the real estate or the right to the real estate after the notation of the prohibition.

(6) The effect of prohibitions as defined in Paragraph 1 Points 4 and 5 of this Article lies in the fact that the proposer of the security can seek compensation from the opposer of security's debtor or the legal person that undertakes payments transactions business in a civil suit for damage they have inflicted on him by acting in despite of a prohibition. The proposer of security has also other rights against these persons according to the general rules of obligatory rights about forbidden or illegal actions.

(7) Where necessary the court can order measures prescribed in Article 16 of this Law.

*3. A temporary measure for the security of a non-monetary
claim*

The presumptions for the ordering of a temporary measure

Article 298

(1) For the securing of a non-monetary claim a temporary measure can be ordered if the proposer of security gives good grounds for supposing the existence of his claim, and then:

1. if he gives grounds for supposing the danger that without such a measure the opposer of security would prevent or make very difficult the realisation of the claim, particularly by changing the existing state of things, or
2. if he gives grounds for supposing that the measure is necessary to prevent violence or the occurrence of some irreparable damage that is threatened.

(2) The provisions of Article 196 Paragraphs 2 and 3 of this Law are also applied in the case of ordering a temporary measure for the security of non-monetary claims.

*Kinds of temporary measure for the security of non-monetary
claims*

Article 299

(1) For the security of non-monetary claims every measure through which the aim of this security is achieved can be ordered, but in particular:

1. forbidding the alienation or burdening of moveables on which there is a claim, their confiscation and being confided to the safekeeping of the proposer of security or some third person,
2. a prohibition on the alienation or burdening of shares in a joint stock company, or equity or sole equity in a company on which a claim is administered, with a note of the prohibition being made in the share register, of the equity or sole equity in a company, and if necessary in the record of the court as well; a prohibition on the use or disposition of rights on the basis of such shares or equity; the confiding of the shares or equity to the administration of a third person; the setting up of a temporary administration for a company,
3. a prohibition on alienating or burdening other rights on which a claim is administered, with the confiding of the administration of these rights to a third person,
4. a prohibition on the alienation and burdening of real estate on which a claim is administered or of real rights registered on real estate on which a claim is administered, with a note of the ban being made in the land register; confiscation of the real estate and its being confided to the safekeeping and administration of the proposer of security or some third person,
5. forbidding a debtor of the opposer of security to surrender things to the opposer of security, to transfer any right or perform any non-monetary action on which the claim is administered,
6. forbidding the opposer of security to undertake any actions that can cause damage to the proposer of security and a prohibition on his making any changes to things on which a claim is administered,
7. an order to the opposer of security that he do certain actions necessary to preserve the moveables or real estate or in order to maintain the current state of things,
8. the authorisation of the proposer of security to keep the things of the opposer of security that are in his possession and to which the claim relates, until the suit is closed with full legal effectiveness,
9. the authorisation of the proposer of the security to do himself or via a third party certain actions or to procure certain things, particularly in order to restore the previous state of affairs,
10. the temporary returning of an employee to his work; the payment of compensation during the time of a labour dispute, if this is necessary for his maintenance and the maintenance of persons whom he is legally obliged to maintain.

(2) If it is necessary in order to prevent irreparable damage or hardly reparable damage, violence or if there are other important reasons why it is necessary to do this in order to secure law and order, the court can order a measure by which it will temporarily order the disputed relation among the parties.

(3) Prohibitions as defined by Paragraph 1 of this Article are considered implemented by their being served on the person whom they concern or on the land register department of the court or some other record.

(4) The effect of a notation of a prohibition as defined by Paragraph 1 Point 4 of this Article lies in the fact that with entries made in the land register on the basis of the voluntary disposition of the opposer of security, after the entry of the notation of a prohibition, some rights can be acquired by the proposer of security on the real estate or on a right entered on it only if the proposer of security is denied with [respect to] his application in a procedure that he started for the realisation of a claim for the security of which the note is entered. On the basis of an execution document acquired in the proceeding that he started against the opposer of security for the realisation of a

claim for the security of which the notation of a prohibition is noted and on the basis of a proof that the person who has acquired a certain right on the real estate or the right entered on the real estate on the basis of the voluntary disposition of the opposer of security did acquire that right after the entry of the prohibition, the proposer of security can seek execution directly against that person for the realisation of his right as ascertained in the execution document.

(5) The effect of a prohibition as defined by Paragraph 1 of this Article, apart from that described by Paragraph [in original: Point] 4 of this Article, lies in the fact that persons to whom the prohibition has been issued are liable to the proposer of security for damage that they have caused him by, after being served with the prohibition, acting against the prohibition. Persons to whom a prohibition has been issued can free themselves of liability by depositing with the court the things that the ban relates to if they are suitable for this or by giving them to a safekeeper or an administrator ordered at their proposal by the court.

(6) The provisions of Article 297 Paragraphs 3 and 4 of this Article are applied in an appropriate way to temporary measure for the securing of a non-monetary claim.

4. Joint provisions

Security instead of temporary measure

Article 300

(1) The proposer of security can in a proposal for the ordering of a temporary measure, or subsequently, state that, instead of a temporary measure, he will be satisfied with the opposer of security's giving certain security.

(2) The giving of security instead of a temporary measure can also be ordered at the proposal of the opposer of security. The circumstance that the opposer of security has proposed the giving of security will not postpone the implementation of security until a decision is made about this proposal.

(3) If the opposer of security gives security, the court will discontinue the proceeding and cancel actions already carried out.

Security as a condition for the ordering of a temporary measure

Article 301

(1) The court can also order a temporary measure at the proposal of the proposer of security

without his having to give grounds for supposition of the existence of a claim and of a danger if previously, in a period assigned him by the court, he has given security for any damage that might be caused to the opposer of security by the ordering and implementation of a temporary measure. If the proposer of insurance does not give the insurance in the designated time, the court will dismiss the proposal for security.

(2) The court can at the proposal of the opposer of security, according to the circumstances of the case, act according to the provision of Paragraph 1 of this Article even when the proposer of security has given good grounds for supposing the existence of the claim and the danger. If the proposer of security does not give the security in the designated time, the court will stop the proceedings and cancel the actions carried out. The circumstance that the opposer of security has sought the giving of security does not postpone the implementation of the security proceeding until the court decides about his proposal.

(3) Security is ordered until the expiry of the time in which the opposer of security can in the security proceeding seek compensation for damage.

The ordering of several temporary measures

Article 302

(1) The court can, regarding the circumstances of the case, order several temporary measures, if this is necessary.

(2) If in a given case it is possible to order several temporary measures, the court will order that which is most suitable in order for the purpose of the security to be achieved, and if they are all equally suitable, the court will order that which is least distressful to the opposer of security.

The time for which a temporary measure is ordered

Article 303

(1) In the ruling in which a temporary measure is ordered will also be ordered the length of the measure, and if the measure is ordered before a suit is started or the starting of any other procedure, also the period in which the proposer of security may file suit or make a proposal for the starting of some other procedure, to provide justification for the measure.

(2) At the proposal of the proposer of security, the court will extend the duration of the temporary measure, on condition that the circumstances under which the measure was ordered have not changed.

(3) A proposal as defined by Paragraph 2 of this Article can be submitted only before the expiry of the time for which the temporary measure is ordered.

Legal remedy

Article 304

The provisions of this Law about appeal against and objection to execution rulings are applied in an appropriate way in the procedure of security via a temporary measure.

Cancellation of a temporary measure

Article 305

(1) If the proposer of security does not file suit in a certain time, or if he does not start off any other proceeding for the justification of the temporary measure or if the time for which the temporary measure was ordered has expired, the court will, at the proposal of the opposer of security, discontinue the proceeding and cancel the actions carried out.

(2) At the proposal of the opposer of security, the procedure will be discontinued and the actions carried out cancelled, if the circumstances because of which the measure was ordered later change so that it is no longer necessary.

Compensation of the opposer of security for damage

Article 306

(1) The opposer of security has the right to compensation for damage caused him by a temporary measure from the proposer of security when it is ascertained that the measure was groundless or when the measure was not justified by the proposer.

(2) In this case the provisions of Article 282 Paragraphs 4, 5 and 6, of Articles 290 and 291 of this Law are applied in an appropriate way.

Application of the provisions about security by prior measures

Article 307

In the procedure of security by temporary measures, the provisions of Article 288 and Article 189 Paragraphs 2 to 4 of this Law are applied in an appropriate way.

Part Four

TRANSITIONAL AND FINAL PROVISIONS

Tenants' rights

Article 308

(1) Tenant's right or a right equivalent to tenant's right does not cease with the sale of an apartment or the building in which the apartment lies unless otherwise provided for by the law.

(2) The purchaser acquires the rights and obligations of a landlord [lit: the giver of an apartment for use].

Proceedings in progress

Article 309

Proceedings in progress will be concluded according to the provisions of the law that was valid until this Law came into force.

When the provisions of other laws cease to be valid