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Code of Enforcement Procedure¹

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13.12.2006	RT I 2007, 2, 7	01.02.2007
24.01.2007	RT I 2007, 15, 76	01.05.2007
21.02.2007	RT I 2007, 25, 130	01.01.2008
19.11.2008	RT I 2008, 54, 304	27.12.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
17.12.2008	RT I 2009, 4, 24	01.03.2009
21.05.2009	RT I 2009, 30, 178	01.10.2009
21.10.2009	RT I 2009, 51, 349	15.11.2009
18.11.2009	RT I 2009, 59, 385	01.01.2010
09.12.2009	RT I 2009, 68, 463	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for by Article 140(2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13.07.2010 (OJ L 196, 28.07.2010, pp. 24–26).
17.06.2010	RT I 2010, 38, 231	01.07.2010
17.11.2010	RT I, 06.12.2010, 1	05.04.2011
17.02.2011	RT I, 14.03.2011, 1	24.03.2011, in part 01.01.2012
17.02.2011	RT I, 21.03.2011, 1	01.01.2012
30.05.2012	RT I, 13.06.2012, 1	23.06.2012
13.06.2012	RT I, 10.07.2012, 2	01.04.2013
05.12.2012	RT I, 21.12.2012, 1	01.03.2013
20.12.2012	RT I, 31.12.2012, 5	10.01.2013, in part 01.01.2013 and 01.01.2014
11.12.2013	RT I, 23.12.2013, 1	01.01.2014
19.12.2013	RT I, 14.01.2014, 1	24.01.2014
21.01.2014	RT I, 31.01.2014, 6	01.02.2014
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, in part 23.03.2014 and 01.01.2016
26.03.2014	RT I, 11.04.2014, 1	01.10.2014
11.06.2014	RT I, 21.06.2014, 8	01.01.2015

19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of Ministers replaced on the basis of subsection 4 of § 107 ³ of the Government of the Republic Act.
05.11.2014	RT I, 20.11.2014, 1	01.05.2015
19.11.2014	RT I, 13.12.2014, 1	01.01.2016, date of entry into force changed to 01.07.2016 [RT I, 17.12.2015, 1]
10.12.2014	RT I, 31.12.2014, 1	10.01.2015
18.02.2015	RT I, 05.03.2015, 2	06.03.2015, in part 01.01.2017
18.02.2015	RT I, 12.03.2015, 4	01.10.2015, in part 01.03.2016
25.11.2015	RT I, 17.12.2015, 1	20.12.2015, in part 01.01.2016 and 01.07.2016
15.06.2016	RT I, 08.07.2016, 1	01.01.2017
08.03.2017	RT I, 23.03.2017, 1	01.04.2017
07.06.2017	RT I, 26.06.2017, 1	06.07.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
14.06.2017	RT I, 04.07.2017, 1	01.01.2018
14.06.2017	RT I, 04.07.2017, 3	01.01.2018
14.06.2017	RT I, 04.07.2017, 4	01.06.2023 - enters into force simultaneously with entry into force of the Agreement on a Unified Patent Court and the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court with regard to Estonia (announcements of the Ministry of Foreign Affairs – RT II, 04.03.2023, 3 and RT II, 04.03.2023, 4)
19.06.2017	RT I, 07.07.2017, 2	01.01.2018
13.12.2017	RT I, 30.12.2017, 2	09.01.2018, in part 01.07.2018 and 01.01.2019
21.03.2018	RT I, 03.04.2018, 3	15.04.2018, in part 01.07.2018
09.05.2018	RT I, 31.05.2018, 2	10.06.2018
09.05.2018	RT I, 31.05.2018, 1	01.01.2019
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
17.10.2018	RT I, 26.10.2018, 1	01.04.2022, in part 01.09.2019
20.02.2019	RT I, 19.03.2019, 2	29.03.2019
21.02.2019	RT I, 19.03.2019, 8	01.04.2019
20.02.2019	RT I, 19.03.2019, 1	01.01.2021
21.06.2019	RT I, 27.06.2019, 2	21.06.2019 – by judgment of the Constitutional Review Chamber of the Supreme Court the second sentence of subsection 4 of § 100 of the Code of Enforcement Procedure is declared unconstitutional and invalid insofar as the enforcement agent has no discretion in deciding on the return of deposits paid by participants in an auction held in enforcement proceedings – as regards the issue of the proportion in which a deposit must be returned to the person who paid it and to in which it must be transferred to the common part of the budget of the Estonian Chamber of Enforcement Agents and Trustees in Bankruptcy.
09.12.2020	RT I, 22.12.2020, 34	01.01.2021
16.12.2020	RT I, 04.01.2021, 4	01.02.2021
17.02.2021	RT I, 03.03.2021, 1	04.03.2021
10.03.2021	RT I, 22.03.2021, 1	01.04.2021
24.03.2021	RT I, 09.04.2021, 1	19.04.2021, in part 01.01.2023 and 01.01.2024
22.11.2021	RT I, 10.12.2021, 1	01.09.2022
23.02.2022	RT I, 12.03.2022, 2	15.03.2022

23.11.2022	RT I, 16.12.2022, 1	01.01.2023
07.12.2022	RT I, 23.12.2022, 1	01.02.2023
14.12.2022	RT I, 06.01.2023, 1	01.04.2023
22.02.2023	RT I, 11.03.2023, 1	01.11.2023
20.06.2023	RT I, 06.07.2023, 6	01.01.2024
06.03.2024	RT I, 22.03.2024, 1	01.04.2024

Part 1

GENERAL PROVISIONS

Chapter 1

ENFORCEABLE TITLES AND PRINCIPAL ARRANGEMENTS CONCERNING ENFORCEMENT

§ 1. Scope of application of this Code

This Code provides for the rights and obligations of debtors, of parties seeking enforcement and of enforcement agents and lays down the rules for the enforcement of enforceable titles.

§ 2. Enforceable titles

(1) This Code states the rules that govern the enforcement of claims stated in the following enforceable titles:
1) a judgment or court order rendered in a civil case, which has entered into effect or is enforceable without delay;

2) a judgment or order of an administrative court that has entered into effect or is enforceable without delay and concerns case costs or any other monetary claims stemming from public law that have fallen due, or an award of compensation for harm caused in a public-law relationship, or measures of interim relief to secure payment of a monetary claim;

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

3) a judgment or order rendered in a criminal case, which has entered into effect and which concerns criminal sanctions that consist in a monetary claim that has fallen due, the costs of criminal proceedings or any other monetary claims that have fallen due;

4) a judgment or order rendered in a misdemeanour case, which has entered into effect and which concerns a fine imposed as a sanction for a misdemeanour, the costs of misdemeanour proceedings or any other public-law claims that have fallen due;

4¹) a decision or order of the Unified Patent Court that has entered into effect and is mentioned in Article 82 of the Agreement on a Unified Patent Court (OJ C 175, 20.06.2013, pp. 1–40);

[RT I, 04.07.2017, 4 – entry into force 01.06.2023 – enters into force simultaneously with the entry into force, in respect of Estonia, of the Agreement on a Unified Patent Court and of the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court (announcements of the Ministry of Foreign Affairs – RT II, 04.03.2023, 3 and RT II, 04.03.2023, 4)]

5) a disposition of a foreign court that has been declared enforceable in Estonia or that is enforceable without having been recognised;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

5¹) an official document of a foreign state that has been declared enforceable in Estonia or that is enforceable without having been recognised;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

6) a decision of an arbitral tribunal that has been declared enforceable;

[RT I, 19.03.2019, 8 – entry into force 01.04.2019]

6¹) a decision of the Arbitral Tribunal of the Estonian Chamber of Commerce and Industry or of the Chamber of Notaries that has entered into effect;

[RT I, 19.03.2019, 8 – entry into force 01.04.2019]

7) a decision of a rent tribunal that has entered into effect;

[RT I, 04.07.2017, 3 – entry into force 01.01.2018]

7¹) a decision of the Public Procurement Appeals Committee that has entered into effect and concerns a monetary claim that has fallen due;

[RT I 2007, 15, 76 – entry into force 01.05.2007]

7²) a decision of the Ethics Tribunal of the Bar Association that has entered into effect;

[RT I, 21.12.2012, 1 – entry into force 01.03.2013]

- 7³) a decision which has been rendered by the employment tribunal and has entered into effect or is enforceable without delay, or an order by which the tribunal approved a compromise;
[RT I, 04.07.2017, 3 – entry into force 01.01.2018]
- 8) a settlement reached in proceedings conducted before an out-of-court dispute resolution body provided for by law, including an agreement that was reached in conciliation proceedings and has been approved by the Chancellor of Justice;
- 9) a decision or order of an out-of-court proceedings authority concerning a fine imposed as a sanction for a misdemeanour, concerning a cautionary fine imposed under the written caution procedure, concerning a fixed penalty imposed under the abridged procedure or concerning the costs of misdemeanour proceedings or any other public-law monetary claims that have fallen due;
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]
- 10) an order of an investigative authority or of the Prosecutor's Office for collection of information needed to impose a forfeiture of property or for deciding confiscation of proceeds of a criminal offence, and for reimbursement of the costs of the case in pre-trial proceedings, or an order of the Prosecutor's Office concerning repayment of compensation for harm caused in offence proceedings;
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]
- 11) an administrative decision that constitutes the basis for collection of a non-compliance levy and of the costs of substitutional performance;
- 12) an administrative decision issued by the tax administration concerning compulsory enforcement of tax liabilities and of other monetary obligations;
- 13) a compliance notice for enforcement of a statutory fee, issued by the administrative authority that performed the operation for which the fee is due;
- 14) [Repealed – RT I, 04.07.2017, 1 – entry into force 01.01.2018];
- 14¹) a decision made under the procedure for acquisition of immovable property in the public interest, including under the expropriation procedure;
[RT I, 29.06.2018, 1 – entry into force 01.07.2018]
- 14²) [Repealed – RT I, 29.06.2018, 1 – entry into force 01.07.2018];
- 15) – in relation to the claim to hand over possession of an item of immovable property – a record of compulsory auction on the basis of which the person who purchased the item at the auction was registered as its owner in the Land Register;
- 16) the enforcement agent's decision concerning the agent's fee and the costs of enforcement and concerning the imposition of a non-compliance levy;
[RT I, 14.03.2011, 1 – entry into force 24.03.2011]
- 17) an invoice for the notary's fee for an official notarial operation and for the costs related to its performance;
[RT I, 14.03.2011, 1 – entry into force 24.03.2011]
- 17¹) [Repealed – RT I, 23.12.2013, 1 – entry into force 01.01.2014]
- 18) a notarially authenticated agreement concerning a monetary claim by which, on the claim's falling due the debtor has consented to submit to immediate compulsory enforcement;
- 18¹) a notarially authenticated agreement concerning a claim for maintenance, by which the debtor has consented to submit to immediate compulsory enforcement;
[RT I 2009, 68, 463 – entry into force 01.01.2010]
- 19) a notarially authenticated agreement which provides an obligation for the owner of an item of immovable property or of a ship registered in the Register of Ships or of an item of movable property encumbered with a registered security to submit to immediate compulsory enforcement for the satisfaction of a claim secured by a mortgage, a maritime mortgage or a registered security;
[RT I 2009, 30, 178 – entry into force 01.10.2009]
- 19¹) a notarially authenticated agreement which provides an obligation for the owner of a construction work that is deemed to constitute movable property, or of a part of such a construction work, to submit to immediate compulsory enforcement for the satisfaction of a claim secured by a pledge contract concerning the construction work or part thereof;
- 19²) a notarially authenticated agreement which provides an obligation for the owner of an item of immovable property to submit to immediate compulsory enforcement for the satisfaction of a monetary claim secured by a real encumbrance;
[RT I 2009, 68, 463 – entry into force 01.01.2010]
- 19³) an agreement which is mentioned in subsection 9 of § 35¹ of the Land Reform Act and which has been concluded in writing, or a decision of the County Governor or of the Director General of the Land Board, which obligates the owner of an item of immovable property to submit to immediate compulsory enforcement for the satisfaction of a monetary claim secured by a real encumbrance;
[RT I, 04.07.2017, 1 – entry into force 01.01.2018]
- 20) a decision on the imposition of an overdue parking fee made in the course of enforcement of parking regulations;
- 21) in a situation provided for by law, an administrative decision for the performance of a monetary obligation stemming from public law;
- 22) a decision of the Council, of the Commission or of the European Central Bank which is made under Article 299 of the Treaty on the Functioning of the European Union and which imposes a monetary obligation on a party other than a State;
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]
- 23) a decision of the Office for Harmonisation in the Internal Market mentioned in Article 82 of Council Regulation (EC) No 40/94 on the Community trade mark (OJ L 011, 14.01.1994, pp. 1–36) and Article 71 of Council Regulation (EC) No 6/2002 on Community designs (OJ L 003, 05.01.2002, pp. 1–24);

[RT I 2009, 4, 24 – entry into force 01.03.2009]

24) an agreement concluded in conciliation proceedings and approved and declared to be enforceable in accordance with the rules provided by Chapter 62¹ of the Code of Civil Procedure;

[RT I 2009, 59, 385 – entry into force 01.01.2010]

25) an agreement approved by a conciliation body according to the rules provided by § 26 of the Conciliation Act;

[RT I 2009, 59, 385 – entry into force 01.01.2010]

26) a notarially authenticated agreement mentioned in subsections 3 or 4 of § 14 of the Conciliation Act.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

27) a certificate that is issued by the apartment association and that is mentioned in subsection 4⁴ of § 23, subsection 4 of § 149¹ and subsection 3 of § 153¹ of this Act concerning a claim arising from apartment ownership rights.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) An agreement mentioned in clause 19 of subsection 1 of this section binds the legal successor of the owner of an item of immovable property or a ship only if a corresponding note has been entered in the Land Register or the Register of Ships.

(3) Compulsory enforcement may not be carried out on the basis of an enforceable title mentioned in clause 15 of subsection 1 of this section if the possessor possesses the item of property on the basis of a right which has not expired or been terminated due to compulsory enforcement. Any dispute concerning expiration of the right is disposed of by a district court based on a court claim made by the possessor.

(4) Enforcement proceedings cannot be initiated on the basis of an enforceable title mentioned in clause 27 of subsection 1 of this section.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

§ 3. Organisation of enforcement

(1) Unless otherwise provided for by law, the enforcement of enforceable titles is arranged by enforcement agents.

(2) The legal status and disciplinary liability of enforcement agents is provided for by the Enforcement Agents Act.

§ 4. Territorial jurisdiction

(1) Unless otherwise provided by this Code, the debtor's property is levied upon by the enforcement agent serving the district – as determined by a regulation of the Minister in charge of the policy sector – in which the debtor has their residence or seat or in which the debtor's property is situated.

(2) Where, at the debtor's residence or seat, there is no property to levy upon, the proceedings that have been commenced may be pursued by the enforcement agent outside their district.

(3) Where the debtor moves into the district served by another enforcement agent and no property that could be levied upon remains at the debtor's previous residence, the enforcement agent who commenced the proceedings may pursue them to their conclusion.

(4) The enforcement agent performs enforcement operations only in the territory of the Republic of Estonia. Enforcement proceedings conducted in a foreign state are subject to the law of the state where they are conducted. In order to receive information required for enforcement of an enforceable title in a foreign state, a person has a right to address the Ministry of Justice of the Republic of Estonia.

§ 5. Parties to enforcement proceedings

(1) The parties to enforcement proceedings are the person who has filed a claim for enforcement (the party seeking enforcement), the person against whom a claim has been filed for enforcement (the debtor), and any other persons whose rights are affected by enforcement proceedings.

(2) In addition to other parties, any person who has a right that presents an obstacle to compulsory enforcement or a claim which entitles them to receive a part of the proceeds of the sale of the property in question, and who informs the enforcement agent of such a right and, where the enforcement agent or a party to proceedings requires this, substantiates that right, is also party to enforcement proceedings.

(3) In addition to other parties to enforcement proceedings concerning an item of immovable property, such proceedings include, as parties, any persons for whose benefit a right has been entered or an entry protecting a right has been made in the Land Register by the time a restraining note is recorded in that Register.

§ 6. [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 7. Refusal to perform an enforcement operation

(1) The enforcement agent refuses to perform an enforcement operation strictly for a reason provided by law.

(2) When the enforcement agent refuses to perform an enforcement operation, they issue, without delay, a decision stating the reasons for the refusal in which they also explain the rules for appealing the decision. The agent serves the decision on the person concerned in accordance with the relevant rules of civil procedure.

(3) Unless otherwise provided by law, the enforcement agent may not refuse to accept, from the court, a procedural document for service.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

§ 8. Obligations of enforcement agents

(1) The enforcement agent is required to take, without delay, all measures permitted by law in order to enforce an enforceable title, to collect information required for enforcement proceedings and to explain, to the parties to enforcement proceedings, the rights and obligations of such parties.

(2) The enforcement agent enforces monetary claims, except for a child's claim for maintenance, in the order in which they were filed for enforcement.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

§ 9. Recusal of enforcement agent and the requirements for witnesses

(1) The enforcement agent may not conduct enforcement proceedings and must recuse themselves by a decision if they are:

1) the debtor or the party seeking enforcement or their representative, except where the agent is collecting the costs of enforcement;

2) a descendant or lineally ascending relative or a sister, half-sister, brother or half-brother of the debtor or of the party seeking enforcement or if they have been married to, or a registered partner of, a sister, half-sister, brother or half-brother of the debtor or of the party seeking enforcement;

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

3) a step-parent or foster parent or a stepchild or foster child of the debtor or of the party seeking enforcement;

4) an adoptive parent or adoptive child of the debtor or of the party seeking enforcement;

5) the spouse or registered partner of the debtor or of the party seeking enforcement, a person permanently living together with the debtor or the party seeking enforcement, including after the marriage, registered partnership or permanent cohabitation has ended;

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

6) directly or indirectly interested in the compulsory enforcement or if other circumstances apply which give reason to doubt their impartiality.

(1¹) The enforcement agent must also recuse themselves if a person connected with the agent within the meaning of subsection 1 of § 117 of the Bankruptcy Act, an employee of the agent's office or another enforcement agent with whom the agent keeps a shared office is a party to proceedings or a beneficiary of the enforcement operation. Delegating the enforcement operation to the agent's assistant or to a stand-in agent does not constitute a justifying circumstance.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) In a situation mentioned in clause 6 of subsection 1 of this section, collection of the enforcement agent's fee is not deemed to be a circumstance causing partiality.

(3) On the grounds mentioned in subsections 1 and 1¹ of this section, a party to enforcement proceedings or their representative may file a substantiated application to recuse the enforcement agent. The application may be filed without delay after becoming aware of the circumstance which constitutes grounds for recusal.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) Where the enforcement agent has not self-recused following receipt of the application, the person who filed the application may file, with the court, within ten days following service of the decision by which the agent refuses to recuse themselves, a motion to recuse that agent.

(5) When it receives a motion mentioned in subsection 4 of this section, the court hears the opinion of the enforcement agent and of the party to enforcement proceedings. The court disposes of the motion to recuse the agent by an order.

(6) Where the enforcement agent is recused, the enforceable title is assigned to another enforcement agent on an application of the party seeking enforcement. If all enforcement agents serving the district have been recused, the enforceable title, on a motion of the party seeking enforcement, is assigned to be enforced by the enforcement agent who is closest to the residence or seat of the debtor. If the party seeking enforcement does not file a motion for assignment within five working days following service of the order, the court decides on the transfer of the case to another enforcement agent on a motion of the enforcement agent who has been recused.

(7) Any witnesses who participate in enforcement proceedings are also subject to the provisions of clauses 1, 2, 5 and 6 of subsection 1 of this section. Acting as the enforcement agent or being employed in the enforcement agent's office does not preclude a person from appearing as a witness.

§ 10. Transmission of documents

(1) The enforcement agent must serve, on the debtor, the enforcement notice and, on the parties to enforcement proceedings, a notice of any attachment of property, any auction report, any decisions the agent makes concerning any complaints filed against the agent's actions as well as any other documents provided for by law. The debtor may, on receiving the enforcement notice, notify to the agent the method by which procedural documents are to be transmitted to them and the contact details of a location that, when documents are transmitted to it, allows them to be deemed to have been served by the agent. The agent may, when serving the enforcement notice or any other procedural document personally on the debtor, require the debtor to communicate to the agent contact details by means of which it is possible to serve documents on the debtor. If the debtor does not comply or if their contact details are inaccurate, the agent may also serve, by a method of their choosing, any documents which must be served on the debtor by a method provided by law.
[RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) Unless otherwise provided for by this Code, the service of documents is subject to the provisions of civil procedure regarding service of procedural documents. The enforcement agent may also serve a document personally. Any operations that the rules of civil procedure require the court to perform in relation to the service of documents are performed by the enforcement agent. In a situation provided for by § 327 of the Code of Civil Procedure, the enforcement agent may deposit the document in the office of an enforcement agent which is situated in the locality where the document is to be served.

(2¹) Within two months following reception of a procedural document for service, the enforcement agent is required to have performed all operations that are needed to serve the document.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Where a party to proceedings has been represented in previous judicial proceedings by a representative, documents may be served on the representative.

(4) A notice or any other document which does not have to be served on the parties to proceedings but which affects the rights of such parties is served on them by a method chosen by the enforcement agent.

(5) Where a document mentioned in subsection 4 of this section is sent by post, the document is deemed to have been received three days after being posted and, where the document is sent to a foreign state, seven days after being posted, except where the recipient proves that they received the document later or have not received the document.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 11. Powers of the court under the enforcement procedure; exclusive jurisdiction

(1) Under this Code, the district court has the power to:

- 1) impose a fine;
- 2) order a person to be forcibly brought in, issue an arrest warrant or impose a short-term custodial sentence;
- 3) authorise a search;
- 4) consider an appeal against a decision of the enforcement agent;
- 5) dispose of court claims made in relation to enforcement proceedings;
- 6) appoint and release a compulsory administrator;
- 7) make other dispositions where such are prescribed by this Code.

(2) The matters mentioned in subsection 1 of this section are in the exclusive jurisdiction of the district court in whose judicial district the enforcement proceedings are conducted or should be conducted.

(3) Instead of the judge, court orders provided for by this Code in cases concerning the imposition of fines and of compulsory administration may be made by an assistant judge.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 11¹. Application of Regulation (EU) No 655/2014 of the European Parliament and of the Council

(1) A European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council establishing a European Account Preservation Order procedure to facilitate cross-border debt clawback in civil and commercial matters (OJ L 189, 27.06.2014, pp. 59–92) is enforceable in Estonia in enforcement proceedings and the provisions governing enforcement of orders on interim relief in Estonia apply to the debtor's legal remedies insofar as has not been provided for otherwise by Regulation (EU) No 655/2014 of the European Parliament and of the Council.

(2) The filing of a signed enforcement application within the meaning of § 23 of this Code is not required in order to commence enforcement proceedings on a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council.

(3) In order to attach a bank account, instead of an attachment notice the enforcement agent transmits to the credit institution Part A of the European account preservation order conforming to Article 19 of Regulation (EU) No 655/2014 of the European Parliament and of the Council as well as a European account preservation order preservation notice.

(4) The Enforcement Register is not used when enforcing a European account preservation order.
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

(5) If, at the time of attachment, the debtor's account does not have funds in the amount stated in the attachment notice, any amounts credited to the account after such time are not deemed to be attached to the extent that remained outstanding at the time of attachment.

(6) Where a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council protects a child's claim for maintenance, subsection 4 of § 65 of this Code applies.

(7) Having performed the preservation operations, the credit institution presents a declaration concerning the preservation of funds that is mentioned in Article 25 of Regulation (EU) No 655/2014 of the European Parliament and of the Council to the enforcement agent without delay.

(8) An electronic version of the form to be used for the declaration under Article 25 of Regulation (EU) No 655/2014 of the European Parliament and of the Council is disseminated on the website of the Chamber of Enforcement Agents and Trustees in Bankruptcy.

(9) Under paragraph 1 of Article 34 and paragraph 4 of Article 35 of Regulation (EU) No 655/2014 of the European Parliament and of the Council, competence to apply the remedy is vested in the enforcement agent.

(10) Under paragraph 14 of Article 4 of Regulation (EU) No 655/2014 of the European Parliament and of the Council, the enforcement agent is competent to receive, transmit and serve documents under paragraphs 3, 5 and 6 of Article 23, paragraph 3 of Article 25, paragraph 2 of Article 27, paragraph 3 of Article 28 and the second subparagraph of paragraph 5 of Article 36.
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

Chapter 2

PREREQUISITES FOR ENFORCEMENT OF AN ENFORCEABLE TITLE

§ 12. Note certifying the entry into effect of an enforceable title

(1) To be accepted for enforcement, the judicial disposition – or the decision of an employment tribunal or of a rent tribunal – that has entered into effect must bear a note certifying its entry into effect. A note certifying entry into effect is not issued regarding a disposition that is enforceable without delay.
[RT I, 11.04.2014, 1 – entry into force 01.10.2014]

(2) A note certifying the entry into effect of the decision of an employment tribunal or of a rent tribunal is issued by the tribunal after the entry into effect of the decision.
[RT I, 11.04.2014, 1 – entry into force 01.10.2014]

(2¹) A certificate concerning enforceability of the decision is annexed to the enforceable title mentioned in clause 22 of subsection 1 of § 2 of this Code by the Ministry of Justice.
[RT I 2006, 61, 457 – entry into force 01.01.2007]

(2²) A certificate concerning enforceability of the decision is annexed to the enforceable title mentioned in clause 23 of subsection 1 of § 2 of this Code by the Patent Office.
[RT I 2009, 4, 24 – entry into force 01.03.2009]

(3) An enforceable title mentioned in subsections 1 and 2 of this section may be also accepted for enforcement without a note on its entry into effect and without presentation of the document in physical form, provided the entry into effect of the decision can be verified by another method which is technically secure. The Minister in charge of the policy sector may enact specific requirements for verification of the entry into effect of enforceable titles by another method.

(4) The enforcement agent may terminate proceedings if it becomes evident that the enforceable title was accepted for enforcement in violation of the requirements of this section.

§ 13. Enforcement proceedings regarding property of the spouse

(1) [Repealed – RT I, 19.03.2019, 2 – entry into force 29.03.2019]

(2) Where, due to its nature, an item of property is suitable for the personal use of one spouse, it is presumed that the item belongs to the spouse who should be using it because of its nature.

§ 14. Levy on community property of spouses or registered partners

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

(1) A levy on the community property of spouses is permitted subject to the consent of the spouse who is not the debtor, or if the enforceable title requires both spouses to perform the obligation.

(1¹) Where a levy on the community property of spouses is made in enforcement proceedings concerning the property of one spouse, the consent, in favour of the party seeking enforcement, of the spouse who is not the debtor is presumed. Such property may be attached and sold. The presumption of consent does not apply to items of immovable property and to the earnings of the spouse who is not the debtor, as well as to the funds in any account opened in the name of the spouse who is not the debtor. The spouse who is not the debtor is notified of the attachment of the property mentioned in this subsection and the possibility of filing an objection is explained to that spouse.

[RT I, 19.03.2019, 2 – entry into force 29.03.2019]

(2) The party seeking enforcement may demand division of community property and the making of a levy on the share of such property that belongs to the debtor.

[RT I, 19.03.2019, 2 – entry into force 29.03.2019]

(3) The provisions of this section also apply to levies on community property of registered partners.

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

§ 15. Levy on partnership property

A levy on partnership property requires an enforceable title that is valid in respect of all partners.

§ 16. Continuation of enforcement proceedings after the debtor's death

(1) Unless otherwise prescribed by law, enforcement proceedings initiated before the debtor's death are continued against the debtor's estate.

(2) Where the enforcement operation must be performed in the presence of the debtor or if the debtor must be informed of the operation, the court, on a motion of the party seeking enforcement, appoints a temporary representative to the debtor's heirs or beneficiaries – if the decedent's estate has not yet been accepted, the heirs or beneficiaries are not known or it is not known whether they accept the estate. The appointment is forgone if the estate is administered by an administrator or by the executor of the testator's will.

§ 17. Enforcement proceedings before expiry of the time limit for renouncing an inheritance and before acceptance of the same

Before expiry of the time limit for renouncing an inheritance or before acceptance of the same, enforcement proceedings based on a claim against the estate may be conducted only in respect of such an estate. In such a situation, the estate may not be subjected to a levy that is based on the personal obligations of the heir or beneficiary.

§ 18. Accepting the enforceable title for enforcement on legal succession and on assignment of possession of the property

(1) Where the enforceable title is also effective in respect of the legal successor of the party seeking enforcement or of the debtor named in the title, the enforcement agent accepts the title for enforcement if the legal succession has been proved to the agent by a judicial disposition, by an extract from a public register or by a notarially authenticated document. The same applies to the enforcement of a judicial disposition in respect of the possessor of a disputed item of property, where the possessor has changed after the rendering of the disposition.

(1¹) The passing of the maintenance claim to the State is proved by the decision to grant a maintenance allowance according to subsection 1 of § 57 of the Family Allowances Act and by a statement of the operation of payment of the maintenance allowance during enforcement proceedings.

[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(1²) The legal successor of the party seeking enforcement may join the enforcement proceedings that have been initiated.
[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(2) The provisions of subsection 1 of this section apply to the heir or beneficiary also where a judicial disposition that has been rendered in respect of a provisional heir or beneficiary or of the executor of the testator's will applies to the heir or beneficiary.

(3) Where the party seeking enforcement has not produced a document mentioned in subsection 1 of this section to prove the passing of rights, they may make a court claim against the debtor seeking recognition of the passing of the right or obligation arising from the enforceable title.

§ 19. Beginning of enforcement proceedings where the claim is provisional or contingent

(1) Where, in order to become due, the claim stated in the enforceable title requires expiry of a time limit or the fulfilment of a condition or the arrival of a due date, enforcement operations may only be commenced after such expiry, fulfilment or arrival.

(2) Fulfilment of the condition must be proved to the enforcement agent by written documents.

§ 20. Enforcement proceedings depending on the provision of security by the party seeking enforcement

If enforcement proceedings require the provision of security by the party seeking enforcement, such proceedings may be commenced only if the provision of security is proved by a written document and a copy of the document has been served on the debtor or is served on the debtor together with the enforcement notice.

§ 21. Simultaneous mutual performance

(1) Where the enforcement of an enforceable title requires the simultaneous performance, to the debtor, of an obligation owed by the party seeking enforcement, the enforcement agent does not commence enforcement proceedings before the obligation owed by such a party has been performed or before the party, or the agent, has offered to perform the obligation to the debtor, and the debtor has, without justification, refused to accept such performance or has delayed acceptance for other reasons.

(2) An offer mentioned in subsection 1 of this section is not required if the party seeking enforcement presents a written document showing that the obligation owed by the party seeking enforcement has been performed or that the debtor delays acceptance of such performance, and a copy of the document has been transmitted to the debtor or is transmitted to the debtor together with the enforcement notice.

§ 22. Issue to the party seeking enforcement of a document required for enforcement

Where, for purposes of compulsory enforcement, the party seeking enforcement needs a certificate of succession or another document, such a party may require the document to be issued by a notary or an administrative authority in the stead of the debtor. When requiring the issue of the document, the party seeking enforcement must present the enforceable title.

Chapter 3 GENERAL FRAMEWORK FOR ENFORCEMENT PROCEEDINGS

Subchapter 1 Commencement of Enforcement Proceedings

§ 23. Presenting the enforcement application and the enforceable title

(1) The enforcement agent conducts enforcement proceedings based on an application of the party seeking enforcement (hereinafter, 'enforcement application') and an enforceable title. Where the enforceable title is a decision concerning payment of the enforcement agents' fee or a decision ordering payment of the costs of enforcement, and in other situations provided for by law, the enforcement agent conducts enforcement proceedings regardless of whether an application has been filed by the party seeking enforcement.

(2) The enforcement application is presented to the enforcement agent in writing and states:

- 1) the name of the agent;
- 2) for the party seeking enforcement as well as for the debtor – their name, personal identification code or date of birth, residence and their telecommunications number; where the party or the debtor is a legal person, such a person's registry code or, if the person does not have a registry code, a reference to the person's legal basis, its seat and telecommunications number;

- 3) if, when the application is made, the party seeking enforcement is represented by a representative, the name of the representative and the legal basis for the representation;
- 4) if possible, information on the debtor's property.

(3) If the party seeking enforcement wishes to levy on an item of immovable property, the application, where this is possible, must state also the particulars of the item on which the levy is to be made. Where several items are indicated, the party seeking enforcement names the item on which they wish the levy to be made.

(4) The enforceable title is annexed to the enforcement application. Such a title is presented as an original document, or as a notarially certified copy or as a copy certified under rules providing for equivalent certification. A judgment may be presented as a copy certified by the court's office. The enforceable title is submitted as an original document in the Estonian or English language or as an official or certified translation into Estonian or English. An enforceable title issued by a proceedings authority in a misdemeanour case is annexed as a copy certified by that authority.

[RT I, 04.07.2017, 4 – entry into force 01.06.2023 – the fourth sentence enters into force simultaneously with entry into effect of the Agreement on a Unified Patent Court and the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court with regard to Estonia (announcements of the Ministry of Foreign Affairs – RT II, 04.03.2023, 3 and RT II, 04.03.2023, 4)]

(4¹) With respect to the enforceable titles mentioned in clauses 19 and 19¹ of subsection 1 of § 2 of this Code, a pledge contract, a security agreement, the basis for the principal and for any ancillary claims and a detailed calculation of such claims must be presented to the enforcement agent.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(4²) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4³) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4⁴) Where the apartment association wishes a levy to be made on certain apartment ownership rights, in addition to the enforceable title, the management plan of the apartment association and documentation with the following information must be appended to the application for enforcement:

- 1) the amount of the claim arising from the apartment ownership rights in question which has become due up to three months prior to the making of the application, and information which allows to verify that the claim is justified;

- 2) the basis for further calculation of the management costs.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4⁵) Where the enforceable title contains claims – including a child's claims for periodic maintenance (hereinafter, 'child's claim for periodic maintenance payments') – whose due date is in the future, the party seeking enforcement states whether they wish such claims to be included in the enforcement proceedings. Where the party seeking enforcement has presented, for enforcement, a claim that will become due in the future, they undertake to notify the enforcement agent without delay if such a claim is performed by the debtor directly to them.

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(5) Where the enforcement application has been filed by a representative on behalf of the party seeking enforcement and the enforcement agent cannot verify the existence of the authority of representation without delay, a document certifying such authority must be annexed to the application.

(6) The enforcement application and the enforceable title may be filed electronically. The application must bear the digital signature of the sender or be transmitted otherwise by a technically secure method. The Minister in charge of the policy sector may enact technical requirements for the electronic filing of enforcement applications and of enforceable titles.

(7) In order to commence compulsory enforcement, a person exercising public authority may file the application for enforcement, and the enforceable title, also through the database mentioned in § 63² of this Code.

[RT I, 09.04.2021, 1 – entry into force 01.01.2023]

§ 23¹. Distribution of the claims held by a person exercising public authority

[Repealed – RT I, 09.04.2021, 1 – entry into force 01.01.2023]

§ 23². Continuation of enforcement proceedings commenced by the Tax and Customs Board

(1) The enforcement agent continues the compulsory enforcement commenced by the tax administration on an application of that administration.

(2) Where compulsory enforcement is continued by the enforcement agent, the requirements provided by §§ 24 and 25 of this Code do not apply and any restraining notes or attachments imposed by the tax administration remain effective.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

§ 24. Service of enforcement notice on the debtor

(1) If the conditions for commencement of enforcement proceedings have been met, the enforcement agent serves an enforcement notice on the debtor. The form of the notice is enacted by the Minister in charge of the policy sector.

(2) When the enforcement notice is served on the debtor, enforcement proceedings are deemed to have commenced. For the purposes of calculating compliance with and suspension of the time limit and with respect to the enforcement costs incurred, enforcement proceedings are deemed to have started when the application of the party seeking enforcement reached the enforcement agent, provided the enforcement notice is served on the debtor.

(3) The enforcement notice states:

- 1) the name of both the party seeking enforcement and the debtor;
- 2) the marking of the enforceable title;
- 3) a proposal for voluntary compliance with the enforceable title and the time limit for such compliance;
- 4) a warning that, should the debtor not comply with the enforceable title on a voluntary basis, enforcement operations may be carried out in their respect;
- 5) a reference to the debtor's right to an appointment with the enforcement agent concerning the enforceable title;
- 6) a reference to the debtor's right to make a court claim for compulsory enforcement to be declared impermissible according to the rules prescribed by this Code and within the time limit for making such a court claim;
- 7) a reference to the debtor's right to pay only one half of the enforcement agent's principal fee provided for by law, and the fee for commencement of enforcement proceedings, provided the debtor complies with the enforceable title within the time limit set for voluntary compliance or, before expiry of such a time limit, agrees a payment schedule with the party seeking enforcement and provides satisfaction to the claim according to such a schedule until the claim has been paid in full.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(4) Where the enforcement notice is served as a paper document, it may be served without enclosing a copy of the enforceable title. Where a notice is served without enclosing the enforceable title, it provides an explanation of the method by which the debtor can acquaint themselves with the title. If the debtor wishes to acquaint themselves with the title, the enforcement agent transmits the title to the debtor by a method notified by the debtor.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(5) The enforcement notice that is to be served by public notice is deemed to have been served on the debtor when ten days have elapsed following its appearance in the publication *Ametlikud Teadaanded*. The particulars to appear in that publication are determined by a regulation of the Minister in charge of the policy sector.

[RT I 2006, 55, 412 – entry into force 01.01.2007]

§ 25. Time limit for voluntary compliance with the enforceable title

(1) Where no time limit has been set for voluntary compliance with the enforceable title by law or judicial disposition, the time limit is determined by the enforcement agent. Unless otherwise prescribed by this Code, the time limit may not be less than 30 days. With the consent of the party seeking enforcement, the enforcement agent may set a time limit for voluntary compliance with the enforceable title which is longer than 30 days.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(1¹) In the case of a child's claim for periodic maintenance payments, the time limit for voluntary compliance may not be longer than ten days.

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(1²) Where the enforceable title that regulates access to the child is a judicial disposition and the court has not specified a time limit for voluntary compliance, or where the enforceable title that regulates such access is a conciliation agreement, the time limit for voluntary compliance is set by the enforcement agent. The time limit may not be shorter than ten or longer than thirty days. When setting the time limit, the enforcement agent has regard to the scheduled time for the first access operation that has been provided for by the access arrangement.

[RT I, 10.12.2021, 1 – entry into force 01.09.2022]

(2) Where the enforceable title is complied with before expiry of the time limit for voluntary compliance, the debtor may only be charged one half of the enforcement agent's principal fee provided for by law, and the fee for commencement of enforcement proceedings.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

Subchapter 2

Rights of Enforcement Agents

§ 26. Right to require the provision of information

(1) The enforcement agent may require the debtor to provide any oral or written information required for enforcement proceedings and to present any document or other object necessary for enforcement proceedings. The enforcement agent may, in enforcement proceedings, require a person to present an identity document, and the person is under a duty to present such a document to the agent.

(1¹) The enforcement agent must ascertain why a child maintenance debtor does not comply with the obligation to maintain the child, what their earnings are as well as how they intend to satisfy the child's periodic claim for maintenance payments and to pay off the amounts that are overdue. For this purpose, the agent questions the debtor at least every two months from the last collection of maintenance payments or, where the collection was unsuccessful, from their last contact with the debtor. Priority must be given to questioning the debtor at first hand. The debtor's answers are recorded in the enforcement file.
[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(2) The enforcement agent has the authority to approach a third party in order to receive oral or written information necessary for enforcement proceedings, including, where there is reason to believe that the third party holds such information, the authority to require them to provide information concerning the residence or seat and contact particulars of the debtor. The enforcement agent may require the debtor's employer and any other person who owes an obligation to the debtor to provide any information that is needed for enforcement proceedings and that concerns the debtor's claim for payment or any other benefits the debtor is receiving. Such a third party is under a duty to provide the information except where they are authorised by law to refuse to disclose it.
[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(3) The enforcement agent may require a credit institution to provide a statement of the debtor's account and the particulars of any deposits held by the debtor and of the use of any other services the institution is providing to the debtor, as well as a right to require the Central Securities Depository to provide information concerning the debtor's securities accounts. The provision of a statement of the debtor's account may be required concerning a period which begins six months before the start of enforcement proceedings and lasts until the end of such proceedings. The provision of a statement of the debtor's account may only be required for a period comprising six consecutive months immediately preceding the inquiry. A statement of the debtor's account is provided to the agent free of charge.
[RT I, 30.12.2017, 2 – entry into force 01.07.2018]

(3¹) Where a monetary claim or the total amount of the claims arising from an enforceable title that is being enforced against the debtor exceeds the minimum monthly salary, the enforcement agent may, on the basis of a court order, in order to ascertain a circumstance necessary for performing an obligation established by law, require a credit institution to provide a statement of a third party's account. The agent informs the third party without delay of having made the corresponding application. In the application to the court, the enforcement agent substantiates the need for an account statement, lists the particulars that need to be shown in the statement applied for and states the period to be covered by the statement, which must not be longer than the enforcement proceedings and which may commence six months before the commencement of enforcement proceedings. The court considers the agent's application in action-by-petition proceedings. A statement of the third party's account is issued to the agent free of charge.
[RT I, 30.12.2017, 2 – entry into force 01.07.2018]

(4) Under an enforceable title presented for enforcement, the enforcement agent may require the data controller of a database of a State or municipal authority to provide information concerning the debtor's residence, employer, sources of income, dependants, any property that belongs to the debtor and any obligations which encumber such property as well as concerning any of the debtor's rights, authorisations and documents that are mentioned in § 177² of this Code. Under an enforceable title presented for enforcement, the enforcement agent may require information to be provided concerning the debtor's personal particulars that are on record in the Population Register. The data controller is under a duty to provide such information without delay in writing or electronically.
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 26¹. Imposition of a non-compliance levy

(1) The enforcement agent makes a decision ordering performance of the duty and issues a warning concerning the imposition of a non-compliance levy:

1) in a situation where the duty provided for by § 26 of this Act has not been performed, to the person who was required to provide the information;

2) to a third party who owes an obligation to the debtor, if such a party refuses, without justification, to comply with the attachment notice or does not comply with the notice as required.

(2) The written warning mentioned in subsection 1 of this section includes:

- 1) the given name and surname and address of the addressee or the name and postal address of the legal person;
- 2) the decision that the person or party is required to comply with;
- 3) the date marking the time for voluntary compliance;
- 4) if the decision contains an obligation to refrain from a certain act, the date does not need to be stated;
- 5) the amount of the non-compliance levy that will be imposed on failure to comply with the decision;
- 6) the name of the enforcement agent who issued the warning;
- 7) the date on which the warning was issued.

(3) The time for voluntary compliance with the decision set in a warning must be such as to make it possible for the addressee to perform the obligation.

(4) The warning concerning imposition of a non-compliance levy states such a levy as a specific amount. Where the levy is to be imposed for the first time, its amount is not less than 192 euros or more than 767 euros and, where a repeat levy is imposed, its amount does not exceed 1917 euros.

(5) The enforcement agent may impose a non-compliance levy on a natural person, on a private legal person or on a public legal person. No such levy is imposed on an authority or institution of the State or of a municipality.

(6) A non-compliance levy is collected into the State budget.

(7) The imposition of a non-compliance levy is permissible provided a valid decision has been communicated to the addressee, and the decision has not been complied with within the time limit set in the warning. The decision and the warning are served on the obligated party according to the rules provided by § 10 of this Code.

(8) On a reasoned application of the addressee of the non-compliance levy, the enforcement agent who made the corresponding decision may defer the imposition of the levy and issue a new warning in which a new time limit is set for compliance with the decision. The time limit must not be longer than two months.

(9) The enforcement agent may impose the non-compliance levy on a person repeatedly, until the obligation is performed or an appeal is filed against the decision made concerning imposition of the levy.

(10) No non-compliance levy is imposed when:

- 1) the grounds for the imposition of such a levy provided for by subsection 7 of this section have ceased to apply;
- 2) the legal rule which was the basis for the decision has been repealed;
- 3) the imposition of the levy has been deferred.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

§ 27. Obstruction of enforcement

(1) Where enforcement is obstructed or there is reason to presume it will be obstructed, the enforcement agent may apply for enlisting the assistance of a police officer in the enforcement operation.

(2) The enforcement agent may remove from the scene of the enforcement operation any person who obstructs enforcement.

§ 28. Search of premises, of plots of land and of the debtor's person

(1) With the debtor's consent, the enforcement agent may enter premises that are in the debtor's possession or enter upon a plot of land that is in the debtor's possession and, where this is needed for the execution of the enforceable title, may search the premises or plot. In such a situation, the agent has the authority to open any closed house or apartment doors and storage spaces, or have such doors or spaces opened.

(1¹) The enforcement agent conducts a search of any premises or plots of land that are in the possession of the child maintenance debtor at least following every year that elapses after the last collection of maintenance payments or, where such collection was unsuccessful, after the last search of such premises and plots. The search may be conducted strictly if the claim whose enforcement is sought is a child's claim for periodic maintenance payments.

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(2) Without the debtor's consent, entry to any premises or upon any plot of land in their possession, or a search of such premises or of such a plot, may only be made on the basis of a court order.

(2¹) The court order mentioned in subsection 2 of this section may be made without the debtor having previously prohibited the enforcement agent from entering any premises or upon any plots of land in the debtor's possession, or from searching such premises or plots.

[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(3) A search of any premises or plots of land that complies with the requirements provided for by subsections 1 and 2 of this section must be acquiesced in by any person who has possession in common or direct possession of such premises or plots.

(4) Before the beginning of the search, the enforcement agent must present the relevant court order and provide the debtor with a copy of the order.

(5) The debtor's person may be searched only on the basis of a court order. A person may only be searched by the enforcement agent who is, and in the presence of witnesses who are, of the same sex as the person searched. If the enforcement agent is not of the same sex with the person to be searched, the agent may, in order to perform the search, have recourse to assistance by a police officer who is of the same sex with the person to be searched.

(6) The court makes the order mentioned in this section not later than on the working day following reception of the enforcement agent's application.

§ 29. Enlisting a witness to observe the enforcement operation

Where enforcement is obstructed or there is reason to presume that it will be obstructed or if the debtor, a representative of the debtor, a full-age member of the debtor's family or a person who is in the service of the family is not present at the enforcement operation performed on the premises or on a plot of land of the debtor, the enforcement agent enlists two full-age witnesses, a representative of the municipality or a police officer to observe the operation.

§ 30. Enforcement on a holiday and during night hours

Enforcement operations on a holiday, a national holiday and during night hours from 10pm to 6am are performed only in a situation of urgency.

§ 31. Enforcement of a monetary claim in prison

(1) Each month, the prison transfers the amount to be garnished from the remuneration for work earned by the sentenced prisoner or person committed in custody, or from any other monies the prisoner or person receives, to the official bank account of the enforcement agent who sent in the monetary claim for enforcement. The amount to be garnished is calculated according to § 44 or § 93 of the Imprisonment Act.

[RT I, 22.03.2024, 1 – entry into force 01.04.2024]

(2) In order to distribute the amounts garnished from the sentenced prisoner or person committed in custody, the enforcement agent sets out the corresponding calculation and transfers the money to the party seeking enforcement.

[RT I, 22.03.2024, 1 – entry into force 01.04.2024]

§ 32. Proving the enforcement agent's rights

By the enforceable title, the enforcement agent proves, to the debtor and to any third parties, the agent's authority to carry out enforcement operations, including the authority to accept payments and the performance of any other obligations. The party seeking enforcement cannot rely, in respect of the debtor or of any third parties, on the circumstance that the agent does not have the authority to carry out the enforcement operation.

§ 32¹. Adjustment

(1) Where this is needed, the enforcement agent adjusts a measure or order on the basis of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, pp. 1–32) or adjusts factual elements on the basis of Regulation (EU) No 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters (OJ L 181, 29.06.2013, pp. 4–12).

(2) The enforcement agent provides written notification to the creditor and to the debtor of the adjustment of a measure or order on the basis of Regulation (EU) No 1215/2012 of the European Parliament and of the Council and of the adjustment of factual elements on the basis of Regulation (EU) No 606/2013 of the European Parliament and of the Council.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

Subchapter 3

Documentation of Enforcement Operations and Reception of Funds

§ 33. Enforcement file

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) [Repealed – RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) For each enforcement case, an electronic enforcement file is opened which states, in chronological order, any enforcement operations performed and any notices transmitted in the case. Any documents received, or issued, by the enforcement agent in the case are recorded in the file.

[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

(3) The enforcement agent records, in the enforcement file, any original document transmitted to them on paper and returns it to the sender on a corresponding request.

[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

(4) If an enforceable title contains several monetary claims, a single enforcement file is opened regarding such claims and the claims are added together, unless the party seeking enforcement applies for the opening of several enforcement files.

(5) Where an enforceable title imposes a fine or pecuniary penalty or forfeiture of property on the debtor for a misdemeanour and the court has ordered its execution in instalments, a separate enforcement file is opened regarding the corresponding claims when the first instalment has become due.

(6) The enforcement agent registers and records enforceable titles and enforcement operations electronically according to the rules enacted by a regulation of the Minister in charge of the policy sector.

§ 34. Particulars of enforcement operation to be recorded in the enforcement file

(1) The enforcement agent records the following particulars in the enforcement file regarding each enforcement operation:

- 1) the time and place of performance of the operation;
- 2) a short description of the substance of the operation;
- 3) the names of persons who were present at the operation;
- 4) the signatures of persons who were present at the operation and a note that the relevant entry was signed after it had been read to the person signing it or after the person had acquainted themselves with it and agreed with it;
- 5) the signature of the enforcement agent.

(2) Where a person who is present at the enforcement operation cannot or is unwilling to sign an entry, the reason for waiving the signature must be stated in the file.

(3) Where the enforcement agent has created a record concerning the enforcement operation and the record's form meets the requirements provided by the relevant regulation of the Minister in charge of the policy sector, the particulars contained in the record do not need to be stated in the enforcement file.

§ 35. Access to enforcement file

(1) If a party to enforcement proceedings does not have electronic access to the enforcement file, they have a right to acquaint themselves with the court file at the enforcement agent's office and to obtain printouts and certificates from the enforcement file.

(2) The fees to be charged for printouts and certificates are provided for by the Enforcement Agents Act.

[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

§ 36. Receipt

(1) Where the debtor has performed their obligation in part or in full and requires to be provided with a receipt concerning the performance, the enforcement agent issues such a receipt to the debtor.

(2) The provisions of subsection 1 of this section do not preclude or restrict the debtor's right to require a receipt from the party seeking enforcement concerning the performance.

(3) The enforcement agent transfers any cash received under a receipt to their official bank account not later than on the working day following its reception.

Subchapter 4

Enforcement Costs and the Paying Out of Funds to the Party Seeking Enforcement

§ 37. Enforcement costs

(1) Enforcement costs are the enforcement agent's fee, the cost of service, on the debtor, of the enforcement notice and of any documents enclosed with the notice as well as expenditures which are necessary for enforcement proceedings and which have been incurred by the enforcement agent and the party seeking enforcement, or a third party, after the commencement of enforcement proceedings, including:

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

- 1) fees and statutory fees for inquiries made in order to ascertain personal particulars and the particulars of items of property;
 - 2) the costs of transmission of documents related to enforcement proceedings;
 - 3) the costs of transporting and preserving attached property and of arrangements to ensure its security, including costs of removing and preserving a vehicle or other property registered in the Motor Register that has been handed over to the enforcement agent under a note requiring such handing over, as well as any other costs related to the preservation of property;
- [RT I, 19.03.2019, 1 – entry into force 01.01.2021]
- 4) the costs related to opening, closing, removal, demolition and cleaning of rooms or other objects;
 - 5) travel and accommodation expenses related to enforcement operations;
 - 6) the costs of forcibly bringing the debtor in;
 - 7) the costs of arranging an auction, including costs related to payment of the purchase price. The cost of legal advice used by the enforcement agent or the party seeking enforcement in order to resolve legal issues that have arisen in relation to commencement of enforcement proceedings or in the course of such proceedings are not deemed to be necessary expenses. The costs of maintaining the enforcement agent's office are not deemed to be necessary expenses either.

(2) Compensation for costs of proceedings before the court is decided by the court in accordance with the relevant rules of civil procedure.

(3) The grounds and the rules for calculation of enforcement costs and the extent and upper limit of compensation for such costs are enacted by a regulation of the Minister in charge of the policy sector.

§ 38. Collection of enforcement costs from the debtor

(1) Enforcement costs are borne by the debtor.

(2) Enforcement costs are collected from the debtor under the decision on enforcement costs by the enforcement agent who made the decision, except in a situation provided for by subsection 3 of § 47¹ of this Code.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(3) Where, according to the enforceable title, there are several debtors who are jointly and severally liable for the debt, they are jointly and severally liable for the payment of enforcement costs.

§ 38¹. Collecting the fee paid by the State for collecting an underage child's maintenance

(1) The fee paid by the State to the enforcement agent for collecting an underage child's maintenance is collected from the debtor under the decision mentioned in subsection 1¹ of § 31 of the Enforcement Agents Act as part of proceedings in the same enforcement case.

(2) Where, among other claims, collection of the maintenance allowance paid by the State is sought in the enforcement proceedings pending against the debtor, the allowance is collected before collection of the fee paid for collecting the underage child's maintenance.

(3) The fee mentioned in subsection 1 if this section falls due when enforcement proceedings on the underage child's claim for monthly maintenance payments are terminated.

(4) Accounts concerning the fee mentioned in subsection 1 of this section are kept and the rights of the party seeking enforcement are exercised by the Tax and Customs Board.

(5) The obligation to reimburse the fee paid by the State to the enforcement agent for collecting the underage child's maintenance does not pass on by way of inheritance.

(6) The fee that was paid by the State to the enforcement agent for collecting the underage child's maintenance and that is collected from the debtor is transferred to the State budget.
[RT I, 09.04.2021, 1 – entry into force 01.01.2023]

§ 39. Proof of enforcement costs

Where this is required by the debtor or the party seeking enforcement, the enforcement agent must produce items of documentary evidence concerning enforcement costs.

§ 40. Advance payment of enforcement costs

(1) By a corresponding decision, the enforcement agent may require the party seeking enforcement to pay particularly high enforcement costs, such as costs related to the transport and storage of goods, as well as of arrangements to ensure the security of the same, and any other similar costs, in advance to the agent's official bank account by the due date set by the agent.

(2) An advance payment towards enforcement costs is not charged from a natural person filing:

- 1) for enforcement a judicial disposition in relation to the rendering of which they have received financial aid to pay the costs of the case;
- 2) for enforcement a judgment rendered in criminal proceedings which grants a claim for compensation for harm caused by a criminal offence;
- 3) an enforceable title for the enforcement of maintenance;
- 4) for enforcement a judicial disposition that awards them compensation for loss of capacity for work resulting from harm caused to their health.

[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

(3) If the party seeking enforcement states that they do not agree to the advance payment of enforcement costs, or if the advance payment has not been credited to the current account by the specified due date and this complicates enforcement proceedings, the enforcement agent may decide not to perform the enforcement operation. The agent, without delay, informs the party seeking enforcement of having decided not to perform the enforcement operation.

(4) If the enforcement agent has commenced enforcement proceedings and has set a later due date for advance payment of enforcement costs, the agent may suspend enforcement proceedings if the advance payment of enforcement costs is not made by the prescribed due date. The agent informs the party seeking enforcement without delay of having suspended the proceedings.

(5) A party seeking enforcement may be required to pay the enforcement agent's fee in advance to the extent and according to the rules prescribed by the Enforcement Agents Act.

§ 41. Return of advance payment of enforcement costs

(1) When enforcement costs have been collected from the debtor in full, the enforcement agent returns any advance payment of enforcement costs to the party seeking enforcement.

(2) [Repealed – RT I, 22.03.2021, 1 – entry into force 01.04.2021]

§ 42. Repayment of enforcement costs when the enforceable title is set aside

Where an enforceable title under which compulsory enforcement was conducted is set aside, the debtor has a right to require the party seeking enforcement to return any enforcement costs the debtor has paid. In such a case, the judicial disposition, or disposition of an out-of-court proceedings authority, that sets aside the original enforceable title serves as the new enforceable title together with the decision of the enforcement agent concerning such costs.

§ 43. Payment to the party seeking enforcement from the enforcement agent's official bank account

(1) Any money that is paid into the enforcement agent's official bank account as a result of compulsory enforcement against the debtor's property is transferred by the agent to the party seeking enforcement within ten working days following the money being credited to the account. Where the amount that has been credited to the account exceeds what is required to satisfy the claim of the party seeking enforcement and to cover enforcement costs, the agent returns the excess to the debtor within five days following the amount being credited to the account.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(¹) Any amounts that are credited to the enforcement agent's official bank account as a result of attachment of the debtor's bank account is transferred by the agent to the party seeking enforcement according to the rules provided by subsection 1 of this section but not earlier than three working days following service of the attachment notice on the debtor. Any amounts that are credited after the attachment notice has been served on the debtor are transferred by the agent to the party seeking enforcement according to the rules provided by subsection 1 of this section but not earlier than three working days following the money being credited.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Any sums that are to be released to the party seeking enforcement or to the debtor are transferred from the enforcement agent's official bank account to the person's current account. If the person does not have a current account, money may be paid to such a person on the basis of a receipt issued in their name or by post. In order to transfer money by post, the agent issues a written order to which they append a list of recipients, which also states the addresses of the persons and the amounts to be transferred.

(3) Unless otherwise provided by law, any amount that has not been accepted by the party seeking enforcement is kept in the official bank account for five years following such an amount being credited to the account. When five years have passed, the amount is repaid to the debtor or, if repayment is impossible, transferred to the State budget.

Subchapter 5

Postponing the Enforcement Operation, Suspending and Terminating Enforcement Proceedings

§ 44. Postponing the enforcement operation

The enforcement agent may postpone the enforcement operation on an application of the party seeking enforcement or on a corresponding judicial disposition or when the person to conduct the enforcement proceedings is replaced by another.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

§ 45. Suspending, extending and deferral of enforcement proceedings under a court order

On a motion of the debtor, the court may suspend enforcement proceedings or extend or defer enforcement if continuation of the proceedings is unfair in respect of the debtor. In such a situation, the interests of the party seeking enforcement and other circumstances must be taken into account, including the family and financial situation of the debtor.

§ 46. Suspending enforcement proceedings by decision of the enforcement agent

(1) The enforcement agent suspends enforcement proceedings:

- 1) on an application of the party seeking enforcement;
- 2) on presentation of a judicial disposition if, according to the disposition, the enforcement proceedings or the enforcement operation must be suspended;
- 3) on presentation of a judicial disposition if, according to the disposition, the enforcement operation may be performed or the enforcement proceedings may be continued only subject to the provision of security;
- 4) on presentation of a written certificate if it is evident from such a certificate that the due date of the claim filed for enforcement has been postponed;
- 5) when the debtor's active legal capacity is restricted, until a guardian is appointed to them;
- 6) on the death of the spouse, registered partner or of a lineally ascending relative or descendant or sister or brother of the debtor – based on a corresponding application, for a period of 30 days from the date of death;
- 7) where, in respect of an item of immovable property which is the subject matter of enforcement proceedings, a right that is recorded in the Land Register is in evidence, provided such a right precludes, or constitutes an impediment for, the sale of such an item;

7¹) on presentation of a document, where it is evident from the document that the effect of recognition of a judicial disposition or official document of a foreign state that constitutes the enforceable title is suspended in its country of origin;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

- 8) on another ground provided by law.

(2) The enforcement agent may suspend enforcement proceedings:

- 1) when a complaint is filed against the actions of the agent;
- 2) when the debtor develops a serious illness or is receiving in-patient health services;
- 3) when the debtor is in compulsory military service, alternative service or reserve service;
- 4) on another ground provided by law.

[RT I, 10.07.2012, 2 – entry into force 01.04.2013]

§ 47. Consequences of suspending enforcement proceedings and resumption of enforcement proceedings

(1) When enforcement proceedings are suspended, the enforcement operations that have been performed retain their effect.

(1¹) The enforcement agent issues a decision on suspension or resumption of enforcement proceedings at the latest on the third working day after learning of a circumstance which constitutes grounds for suspension or resumption of proceedings.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1²) When enforcement proceedings are suspended, the enforcement agent sends the decision on suspension of enforcement proceedings without delay to a third party who is executing the agent's attachment notice concerning the debtor's property. The enforcement of any claim under the attachment notice is stayed for the time during which enforcement proceedings remain suspended. Any notes restraining disposal of the debtor's property remain effective.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018 – the number of subsection 1¹ was changed to 1²]

(2) Enforcement proceedings are resumed after the circumstance that caused the suspension ceases to apply. When enforcement proceedings are resumed, the enforcement agent transmits a corresponding note to any third party who owes an obligation to the debtor; such a note constitutes the basis for continuing the execution of the attachment notice.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Where circumstances change, the court may set aside or vary the order suspending enforcement proceedings.

§ 47¹. Transfer of enforcement proceedings

(1) The party seeking enforcement has a right to transfer proceedings in the enforcement case to another enforcement agent who serves the same district and has agreed to continue proceedings in the enforcement case. The enforcement agent who conducted proceedings in the case may charge the party seeking enforcement the enforcement agent's fee to the extent provided for by subsection 2 of § 41 of the Enforcement Agents Act and the enforcement agent to whom the case is assigned has a right to require the party seeking enforcement to make an advance payment towards the enforcement agent's fee as provided for by § 35 of the Enforcement Agents Act. Where the enforcement case is transferred to another enforcement agent, any enforcement operations that have been performed in the case retain their effect.

(2) Where the enforcement agent has conducted proceedings concerning a claim for at least three years, the party seeking enforcement has a right to transfer proceedings in the enforcement case to another enforcement agent who serves the same district and has agreed to continue proceedings in the case. In such a situation, the enforcement agent who conducted proceedings in the case may charge the party seeking enforcement the fee for commencement of proceedings as well as any enforcement costs that have fallen due, and the agent taking up the case may require the party seeking enforcement to make an advance payment towards the agent's fee as provided for by § 35 of the Enforcement Agents Act. The agent taking up the case may not charge the fee for commencement of proceedings. Where the enforcement case is transferred to another enforcement agent, any enforcement operations that have been performed in the case retain their effect.

(3) The enforcement agent who takes up the enforcement case collects, from the debtor, the fee for commencement of enforcement proceedings and the costs of enforcement as mentioned in subsection 2 of this section and transfers these to the agent who conducted proceedings in the case previously.

(4) The enforcement agent who takes up the enforcement case notifies the debtor of stepping in as the proceedings authority in the case.

(5) The transfer of enforcement proceedings must take place not later than three months after receiving the enforcement agent's consent to continue proceedings in the enforcement case.

(6) Any monies that are credited to the official bank account of the enforcement agent who previously conducted proceedings in the enforcement case are transferred without delay to the official bank account of the agent who is continuing those proceedings.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

§ 48. Grounds for termination of enforcement proceedings

(1) The enforcement agent terminates enforcement proceedings:

- 1) on a corresponding application of the party seeking enforcement;
- 2) on presentation of a written document, where such a document shows that the claim of the party seeking enforcement has been satisfied;
- 3) when a sum of money required to satisfy the claim has been paid to the enforcement agent or when the operation stated in the enforceable title has been performed;
- 4) on presentation of a judicial disposition which sets aside the enforceable title accepted for enforcement or revokes the obligation to enforce such a title without delay, or which declares compulsory enforcement to be impermissible, or orders termination of compulsory enforcement in the case;
- 5) on presentation of a written document, where such a document shows provision of a security required to avoid enforcement;

6) on the death or dissolution of the party seeking enforcement or of the debtor, provided the claim or obligation cannot pass to the heirs or beneficiaries or legal successors of the decedent;

7) where commencement of enforcement proceedings was unjustified due to failure to comply with the conditions of enforcement procedure;

7¹) on presentation of a document, where such a document shows that the effect of the judicial disposition or official document of a foreign state that serves as the enforceable title has been revoked in the state of origin; [RT I, 31.12.2014, 1 – entry into force 10.01.2015]

7²) where a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council is being enforced – if there are no funds in the bank account at the time it is preserved, or the funds have been frozen in their entirety, except where the funds in the account were frozen in their entirety at the time the account was preserved and the order protects a child's claim for maintenance; [RT I, 26.06.2017, 17 – entry into force 06.07.2017]

8) on other grounds provided by law.

(2) Where the party seeking enforcement is in direct possession of an item of the debtor's movable property on which the party has a security right that secures their claim, the enforcement agent, on an application of the debtor, terminates enforcement proceedings regarding the rest of the debtor's property provided the amount of the claim is covered by such an item. If the party seeking enforcement also holds, regarding the item in question, such a right under another claim, the application is granted only if the other claim is also covered by the value of the item.

§ 48¹. Terminating enforcement proceedings due to expiry of the limitation period for enforcing a claim that has been recognised by a judicial disposition that has entered into effect or that is inherent in another enforceable title

(1) The enforcement agent terminates enforcement proceedings on due to expiry of the limitation period for enforcement if:

1) the debtor has presented an application to the agent for terminating the proceedings on account of expiry of the limitation period;

2) the period provided for by § 157 of the Act on the General Part of the Civil Code has elapsed since the claim inherent in a judicial disposition that has entered into effect or that is inherent in another enforceable title was first presented for enforcement and

3) the party seeking enforcement does not oppose termination of the proceedings.

(2) When the debtor presents the application, they must pay a fee, in the amount provided by subsection 1 of § 41¹ of the Enforcement Agents Act, for the application to be considered. Where the application seeks the termination of proceedings in several enforcement cases, the fee for consideration is paid for each such case.

(3) If the debtor does not pay the fee provided for by subsection 2 of this section, the enforcement agent may disregard the application. In relation to an application that has been disregarded, no complaint lies against the actions of the agent under the rules of subsection 1 of § 217 of this Code.

(4) Termination of enforcement proceedings on account of expiry of the limitation period for enforcement of the claim does not exempt the debtor from bearing enforcement costs.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

§ 49. Consequences of termination of enforcement proceedings

(1) When enforcement proceedings are terminated, the enforcement agent, without delay, releases any attachments that have been imposed on property and files an application with the Registrar to remove any restraining notes from the relevant register, except when enforcing an interim relief order. The enforceable title is returned to the party seeking enforcement.

(2) Termination of enforcement proceedings does not prejudice the right of the party seeking enforcement to file a new application with the enforcement agent if the claim arising from the enforceable title has actually not been fulfilled. The party seeking enforcement may not file a new application if they have waived their claim in writing, or if enforcement proceedings concerning the claim have been terminated on account of expiry of the limitation period for enforcement.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

§ 50. Rules concerning suspension and termination of enforcement proceedings

(1) Enforcement proceedings are suspended or terminated by a decision of the enforcement agent. Before deciding on a suspension or termination, the party seeking enforcement and the debtor may be heard.

(1¹) In a situation where a monetary claim has been successfully collected, the enforcement agent may not make a decision to terminate enforcement proceedings before they have transferred the amount claimed to the party seeking enforcement and before any attachments imposed on the debtor's property have been released.
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) A decision to terminate or suspend proceedings is sent to the debtor and to the party seeking enforcement. The decision is also sent to a third party if the suspension or termination was applied for by such a party.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 50¹. Rules for terminating enforcement proceedings due to expiry of the limitation period for enforcement of the claim

(1) The enforcement agent transmits the debtor's application mentioned in clause 12 of subsection 1 of § 48¹ of this Code to the party seeking enforcement by a method of the agent's own choice, provided the condition stated in clause 2 of that subsection has been fulfilled, and sets a time limit for presenting written observations. When the agent transmits the application, they explain to the party seeking enforcement the debtor's right, provided by subsection 4 of this section, to file a petition with the court for termination of enforcement proceedings on account of expiry of the limitation period for enforcing the claim.

(2) Until the debtor's application has been disposed of, the enforcement agent does not transfer, to the party seeking enforcement, any monies that have been received to the agent's official bank account.

(3) The enforcement agent considers the debtor's application within 30 days from its reception and, within seven days following consideration, makes a decision by which they terminate enforcement proceedings or, without making a decision, notify the parties to proceedings of continuation of the proceedings.

(4) If the enforcement agent does not terminate enforcement proceedings under subsection 1 of § 48¹ of this Code, they inform the debtor of the debtor's right to file a petition with the court under § 223¹ of this Code for termination of the proceedings on account of expiry of the limitation period for enforcing the claim.

(5) Where enforcement proceedings are not terminated under subsection 1 of § 48¹ of this Code, no complaint lies against the actions of the enforcement agent under the rules of subsection 1 of § 217 of this Code.

(6) If, during consideration of the debtor's application, as a result of compulsory enforcement monies have been received to the official bank account of the enforcement agent, which, under subsection 2 of this section, have not been transferred by the agent to the party seeking enforcement, and the agent terminates the proceedings under subsection 1 of this section, the agent returns such monies to the debtor within five working days following expiry of the time limit for filing an appeal against the agent's decision.

(7) Where the enforcement agent does not terminate enforcement proceedings under subsection 1 of § 48¹ of this Code, and monies have been received as a result of compulsory enforcement to the agent's official bank account during consideration of the debtor's application, the agent transfers such monies to the party seeking enforcement, but not before 15 working days have elapsed since the debtor was notified of continuation of the proceedings.

23.03.2021

Correction – under subsection 4 of § 10 of the *Riigi Teataja* Act a manifest error in the word *arvates* has been corrected.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

§ 51. Termination of enforcement proceedings on declaration of bankruptcy

(1) Enforcement proceedings end when the debtor is declared bankrupt, except in the situation provided for by § 51¹ of this Code.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

(2) When the debtor has been declared bankrupt, the enforcement agent, on an application of the trustee in bankruptcy, hands over, to the trustee, any documents relating to enforcement proceedings and any property of the debtor which is in the agent's possession or which has been entrusted for safekeeping to a third party, and notifies this to the party seeking enforcement. If the agent is conducting proceedings to enforce a decision or order made in a misdemeanour or a criminal case and enforcement proceedings are subject to termination due to the fact of the debtor having been declared bankrupt, the agent informs the party seeking enforcement of the possibility of applying for conversion of the sanction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) A record is created concerning the transfer of documents, setting out a list of such documents, the property that has been handed over, the name of the trustee in bankruptcy and the date of the record. The enforceable title is appended to the record.

§ 51¹. Special rules concerning the end of enforcement proceedings when the debtor is declared bankrupt

(1) Where this is justified, the court may, primarily when, in enforcement proceedings, an auction has been announced concerning property that belongs to the debtor, decide that the enforcement agent is to hold the auction regardless of the debtor having been declared bankrupt.

(2) The enforcement agent deducts, from the proceeds of the sale, their fee and enforcement costs according to the provisions of the Code of Enforcement Procedure and the Enforcement Agents Act. The trustee in bankruptcy may file, in accordance with the rules provided by this Code, an appeal to the enforcement agent against the agent's decision imposing an obligation to pay the enforcement agent's fee and the costs of enforcement.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

Part 2 ENFORCEMENT PROCEDURE FOR MONETARY CLAIMS

Chapter 4 GENERAL PROVISIONS FOR LEVIES ON PROPERTY

§ 52. Methods of levy on property

(1) Where property is to be levied upon, it is attached and sold. Satisfaction of the claim of the party seeking enforcement is provided out of the money received from the property's sale.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) Where an item of immovable property is levied upon, its compulsory administration may be ordered. In a situation of compulsory administration, satisfaction of the claim of the party seeking enforcement is provided out of the fruits received from such administration.

(3) Where a monetary claim is filed against the State or against a municipality, a levy is made on funds. Where the levy has not succeeded within a reasonable period of time, items of property are levied upon.

§ 53. Extent of attachment of property

(1) Except where it is impossible to satisfy the claim of the party seeking enforcement by another method, it is prohibited to attach more of the debtor's property than is necessary for satisfying such a claim and for covering the costs of enforcement.

(2) Property is not to be attached if it may be presumed that the funds raised by a sale of the objects to be attached will only cover the costs of enforcement.

(3) The enforcement agent determines the order of attachment of property after hearing the proposal of the party seeking enforcement. The order is determined having regard to the need to provide the speediest satisfaction possible to the claim of the party seeking enforcement, and to the fact that legitimate interests of the debtor may not be harmed.

§ 54. Restraint on disposal as a result of attachment of property

(1) As of attachment, the debtor is prohibited from making any disposals of the property attached. Where an attachment that is imposed on an item of immovable property also extends to movable property, items of such property may be disposed of within the scope of regular management.

(2) Unless otherwise provided by law, a disposal transaction or any other disposal made in violation of a restraint on disposals is void.

(3) Where a restraint is imposed on disposals of title, of a limited real right or of a pecuniary right, a restraining note is recorded in the relevant register in accordance with the rules provided by law. Insofar as it applies, the restraining note bars the making of any entries to the register without a corresponding application or consent of the enforcement agent.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

§ 55. Void attachment

An attachment is void and has no legal consequences if the procedural provisions concerning attachment have been materially infringed, primarily if:

- 1) property has been attached without a valid enforceable title;
- 2) the enforcement notice has not been served on the debtor;
- 3) property was attached by a person who lacked the corresponding authority;
- 4) the debtor has, to material extent, not been notified of their rights under the enforcement procedure and this has resulted in a violation of the debtor's rights.

§ 56. Extent of satisfaction of a claim

(1) The claim of the party seeking enforcement is satisfied inclusive of any late interest and of any other ancillary claims whose amount appears in the enforceable title.

(2) When distributing any funds received under enforcement proceedings (hereinafter, 'proceeds'), the following priority order applies to cancellations of the debtor's debt: first, any costs to be borne by the debtor, then any ancillary claims that are being enforced and, finally, the principal debt and any interest that has accrued after attachment.

(3) Late interest accrues until the date of the auction or until the date of sale of the property by another method or until the end of compulsory administration.

§ 57. Returning the remainder of funds to the debtor

Any amount which remains of the funds received from the sale of property in enforcement proceedings after the costs of enforcement are covered and the claim is paid is returned to the debtor within five working days following the distribution of funds.

§ 58. Claims in a foreign currency

In enforcement proceedings, any claims or other rights expressed in a foreign currency are converted into euro based on the daily rate of the European Central Bank as on the date of satisfaction of the claim or distribution of the proceeds or the creation of the distribution plan.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

Chapter 5 LIST OF PROPERTY AND THE DEBTOR'S OATH

§ 59. Obligation to provide information

(1) The debtor must provide to the enforcement agent any information on the debtor's property which the agent needs in connection with enforcement proceedings.

(2) Third parties who are in possession of property belonging to the debtor or who owe pecuniary obligations to the debtor are also required to provide information concerning the debtor's property.

(3) An employee or a former employee of the debtor's whose employment relationship has ended during the year preceding the commencement of enforcement proceedings is also required to provide the information mentioned in subsection 1 of this section.

§ 60. List of property

(1) When the enforcement agent so demands, the debtor is required to present a list of their property, including any obligations.

(2) The list of property must, in addition to the property the debtor currently holds, state:

- 1) any property which the debtor has transferred to connected persons within the meaning of § 117 of the Bankruptcy Act for a charge during the year preceding commencement of enforcement proceedings;
- 2) any property which the debtor has disposed of as a gift during two years preceding commencement of enforcement proceedings.

(3) Property that cannot be attached is included in the list only if such property's attachment with substitution of property is presumably possible.

§ 61. Debtor's oath

(1) On a motion of the enforcement agent or of the party seeking enforcement, the court may require the debtor to swear an oath to confirm that the information presented to the enforcement agent concerning their property is accurate according to the debtor's best knowledge.

(2) The debtor takes the oath in court by speaking the following words:
“I (name) swear by my honour and conscience that the information presented to the enforcement agent concerning my property is correct to my best knowledge.”
The debtor signs the text of the oath.

(3) Where the debtor is a legal person, the debtor’s oath may be taken by a member of such a person’s management body, its liquidator, the partner of a general or a limited partnership, a shareholder whose holding represents at least one tenth of the share capital, a procurator or a person responsible for accounting.

(4) In the case of a corporate debtor, the debtor’s oath may also be taken by a member of its management body, its liquidator, procurator or a person responsible for accounting who was released from their duties within one year following commencement of enforcement proceedings.

§ 62. Ensuring presentation of the list of property and the taking of the oath

(1) Where the debtor, without a valid reason, fails to present a list of their property to the enforcement agent or fails to comply with the obligation to take the oath, the court may order the person who is under a duty to present the list or take the oath forcibly brought in and, if this is needed, give the person a short-term custodial sentence.

(2) An order imposing a short-term custodial sentence states, among other things, the following:

- 1) the particulars of the party seeking enforcement and of the debtor;
- 2) the reason for the sentence;
- 3) the duration of the sentence, determining it to be discharged at the time of taking the debtor's oath or when the sentence has been served.

(3) An order imposing a short-term custodial sentence does not need to be served before it is enforced. On arrest, a copy of the order is handed to the debtor against a signed acknowledgement of receipt.

(4) The debtor may be ordered to serve a short-term custodial sentence of up to 30 days.

(5) The debtor must be released from serving the sentence when they present a list of their property or take the oath.

(6) The short-term custodial sentence is served under the conditions provided for by the Imprisonment Act at the jail or prison in whose service area the court that made the order is situated or in which the sentenced person has their residence. Unless otherwise provided for by this Code, forcibly bringing a person in is subject to the provisions of the Code of Criminal Procedure concerning forcible bringing-in.
[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(7) The debtor may, in accordance with the Code of Civil Procedure, file an appeal against a court order under which they were arrested or by which a short-term custodial sentence was imposed on them.

(8) Within the year following the taking of the oath, the debtor is only required to take the oath anew if the enforcement agent has reason to believe that the debtor has acquired property after having taken the oath.

§ 63. Enforcement Register

[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

(1) The Enforcement Register is a database of the State Information System that serves the following purposes:

- 1) to collect information on enforcement proceedings and to facilitate access to that information;
- 2) to collect statistical information on enforcement;
- 3) to function as an information exchange channel to ensure that electronic applications may be made – to carry out tasks emanating from the law – for operations consisting in attachment of the debtor’s account and of any monetary claims the debtor holds, as well as in administering the attachments;
- 4) to function as an information exchange channel to ensure that – to carry out tasks emanating from the law – queries can be made for information in the possession of credit and payment institutions.

(2) A person exercising public authority who requires the use of the Enforcement Register for carrying out tasks emanating from the law may be allowed to use the system provided existing arrangements make this technically feasible.

(3) The Ministry of Justice is controller of the Enforcement Register.

(4) Persons or authorities appointed by the Minister in charge of the policy sector are processors of the Enforcement Register.

(5) Constitutive regulations of the Enforcement Register are enacted by the Minister in charge of the policy sector.

(6) Enforcement cases are registered in the Enforcement Register;

(7) Information that appears in the Enforcement Register is presumed to be true and accurate.

(8) The following are made available via the Enforcement Register:

- 1) information concerning enforcement cases in which proceedings are ongoing and in which proceedings have been terminated;
- 2) information on attachments imposed in enforcement proceedings and on their ranking;
- 3) information on the proceedings authority, the parties to proceedings and any persons participating in the proceedings.

(9) The Minister in charge of the policy sector enacts, by regulation, a detailed list of the particulars to be recorded in the Enforcement Register.

(10) The rules and technical requirements for electronic verification of whether an account has been opened as well as the rules for processing the data in the Enforcement Register and for issuing information from the Register are laid down in its constitutive regulations.

(11) The Enforcement Register makes available to the public information on whether a person has a maintenance debt and, if they do, the outstanding amount that is subject to collection as well as the name, telephone number and email address of the enforcement agent collecting it and the reference number of the enforcement case.

(12) The Enforcement Register makes available to the public information on whether a person has an outstanding debt that is being enforced and, if they do, the amount of the debt according to the enforceable title as well as the amount that is outstanding. Information is provided in enforcement proceedings in which the time limit for voluntary payment has expired.

[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

§ 63¹. Electronic Attachment System

[Repealed – RT I, 09.04.2021, 1 – entry into force 01.01.2024]

§ 63². Information system required for the work of enforcement agents

(1) The Chamber operates an information system that is required for the work of enforcement agents and that allows for the digital exchange of data with other databases.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(2) The information system mentioned in subsection 1 of this section also allows the claims held by a person exercising public authority to be filed for enforcement and distributed – including distribution based on the principle of random attribution – among the enforcement agents.

[RT I, 09.04.2021, 1 – entry into force 01.01.2023]

(3) For any exchange of information with other databases enforcement agents strictly use the information system mentioned in subsection 1 of this section.

[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

Chapter 6 LEVIES ON MOVABLE PROPERTY

Subchapter 1 Attachment

§ 64. Attachment of property items that are in the debtor's possession

(1) In order to attach property items that are in the debtor's possession, the enforcement agent creates a list of such items and restrains the debtor from making any disposal concerning the items. Where a note restraining disposal of an item is recorded in the relevant register on an application of the enforcement agent before service of the attachment notice according to § 75 of this Code, the recording of the note is also deemed to constitute attachment of the item.

(2) Where the delay related to service of the enforcement notice may materially jeopardise attainment of the objectives of compulsory enforcement, the enforcement agent may attach the property of the debtor or have a restraining note recorded in the relevant register before the enforcement notice is sent out.

(3) The enforcement agent may take possession of an item of property of which the debtor has indirect possession only with the consent of its direct possessor. If the direct possessor refuses to hand over the item, the enforcement agent may attach the debtor's right to claim the item from the third party in question.

(4) Where the enforcement agent has reason to believe that the debtor's property has been passed into the possession of a third party in order to evade attachment, the agent may attach the property in the possession of the third party.

(5) The enforcement agent deposits any cash they have seized to their official bank account not later than on the working day following the seizure.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 65. Security right arising by virtue of attachment

(1) As of attachment and by virtue of the same, a security right arises on the attached item of property in favour of the party seeking enforcement.

(2) Unless otherwise provided by law, the security right arising by virtue of attachment grants the party seeking enforcement the same rights as a security right created under a contract or by law.

(3) The security right arising by virtue of an earlier attachment ranks above such a right arising by virtue of a subsequent one. A security right that arose prior to attachment under a contract or by law ranks above the security right that arises in favour of the party seeking enforcement by virtue of attachment.

(4) The security right arising by virtue of attachment based on a child's claim for maintenance ranks above any other security rights arising by virtue of attachment regardless of the time of attachment. The security rights arising by virtue of attachment based on a child's claim for maintenance have an equal ranking.

[RT I 2007, 25, 130 – entry into force 01.01.2008]

(5) [Repealed – RT I, 08.07.2016, 1 – entry into force 01.01.2017]

§ 66. Items of property exempt from attachment

(1) The following items of property may not be attached or sold in enforcement proceedings:

- 1) personal effects of the debtor and household utensils, kitchenware, bedclothes, beds and other items of property used for domestic purposes which are essential to satisfy household needs, taking account of the amount of the debtor's debt;
- 2) at least one technical device which allows the debtor to exercise the right to receive the information provided for by subsection 1 of § 44 of the Constitution of the Republic of Estonia (RT 1992, 26, 349; RT I 2003, 29, 174; 64, 429);
- 3) foodstuffs to sustain the debtor and their family for one month and the fuel required to heat their dwelling during one heating period or, where such a supply is not present at the time of enforcement and its acquisition is not provided for by another method, a sum of money required to acquire the supply;
- 4) any farming equipment, cattle, fertilizers and primary agricultural products of a person engaged in agriculture, which are essential for the debtor to maintain themselves and their family until the next harvest;
- 5) objects essential for a natural person to continue to pursue their economic or professional activities or their employment or service relationship;
- 6) books and other objects used by the debtor or a member of their family in for learning/teaching or worship purposes;
- 7) accounting documents, family records, marriage rings, orders and decorations belonging to the debtor;
- 8) artificial limbs, spectacles and other medical devices necessary due to a physical disability, which are used by the debtor or his or her family member;
- 9) objects necessary for a funeral to be held in the debtor's family;
- 10) a collection of a national or municipal museum or of a museum of a public legal person as well as any items belonging to such a collection, and a national museum collection or any items of such a collection that are being used by a foundation;
- 11) archival records;

[RT I, 21.03.2011, 1 – entry into force 01.01.2012]

- 12) other items of property whose attachment would be contrary to law or good morals.

(2) Items of property mentioned in clauses 1, 2, 4 and 5 of subsection 1 of this section may be attached if compulsory enforcement is demanded by a seller on account of a monetary claim secured by an ownership reservation on the sale of such items.

(3) Items of property necessary for worship activities mentioned in clause 6 of subsection 1 of this section may be attached if the way in which the items are used is contrary to good morals or punishable.

(4) Attachment may not be imposed on State assets whose circulation in the private sphere is subject to restrictions or on items of property which the debtor State or municipality needs for the performance of public duties or whose alienation would be contrary to public interests. Before a decision is made, the opinion of the representative of the competent Ministry or authority must be heard.

§ 67. Exempting animals from attachment

(1) Attachment is not allowed in respect of animals that are kept at home for non-commercial purposes.

(2) On a motion of the party seeking enforcement, the court may allow the attachment of a high-value animal, provided exempting such an animal from attachment would significantly violate the party's interests that are of a type that precludes giving effect to the interests of animal protection or of the legitimate interests of the debtor.

§ 68. Attachment with substitution

(1) An item of property mentioned in clauses 1, 2, and 5 of subsection 1 of § 66 of this Code may be attached if the party seeking enforcement, before seizing the item, gives the debtor a substitute that is fit for use but less valuable, or gives the debtor money for the acquisition of a substitute (hereinafter, 'attachment with substitution'). The value of the substitute or the sum of money paid for its acquisition is compensated to the party seeking enforcement from the proceeds of compulsory enforcement as enforcement costs.

(2) Where it is impossible for the party seeking enforcement to substitute an item of property at a proper time or the party cannot be expected to make such substitution, the enforcement agent may arrange attachment of the item with substitution, provided the debtor receives the money necessary for replacing the item from the proceeds of compulsory enforcement as enforcement costs.

(3) On an application of the party seeking enforcement, the enforcement agent decides on attachment with substitution and determines the value of a substitute item of property offered or the sum necessary for substituting the item.

(4) Money given to the debtor for the acquisition of a substitute item of property may not be attached.

§ 69. Provisional attachment

(1) Where it may be presumed that an item of property that cannot be attached may become attachable in the near future, the item may be attached but must remain in the possession of the debtor. Enforcement proceedings in respect of a provisionally attached item may be continued only after the item becomes attachable.

(2) The enforcement agent releases the attachment of an item of property if the item has not become attachable within six months following its provisional attachment.

§ 70. Persons to be present when a list of property items is created

(1) A list of property items is created in the presence of the debtor, their representative or a full-age member of their family. If the debtor, their representative or a full-age member of their family is not present when the items are attached, the enforcement agent enlists two witnesses or a police officer to be present at the attachment.

(2) The party seeking enforcement or a representative of such a party may be present when the list of property items is created.

§ 71. Leaving an item of property in the debtor's possession

(1) Unless this jeopardises satisfaction of the claim of the party seeking enforcement, the enforcement agent may leave an attached item of property in the debtor's possession. Cash, valuables or securities in the form of documents are not left in the debtor's possession.

(2) When the item of property is left in the debtor's possession, it must be sealed or otherwise marked in order to make its attachment apparent.

§ 71¹. Handing over a maintenance debtor's vehicle or other property registered in the Motor Register to the enforcement agent

(1) If a maintenance debtor has not voluntarily handed over a vehicle or other property registered in the Motor Register against which a note prohibiting disposal has been recorded in that register, the enforcement agent may, if this is necessary, enlist the assistance of a police officer to take control of such a vehicle or other property which is in the direct possession of the debtor.

(2) Where the enforcement agent wishes to enlist the assistance of a police officer for taking possession of a vehicle or other property registered in the Motor Register against which a restraining note has been recorded in the register, they record a supplementary note that reads 'Üle anda kohtutäiturile' [To be handed over to the enforcement agent] to the note restraining disposal of such a vehicle or other object.

(3) When a vehicle or other property registered in the Motor Register is taken for preservation by a police officer under a note mentioned in subsection 2 of this section, it is deemed to have passed into the possession of the enforcement agent who recorded a note concerning the handing over of such a vehicle or other property.

(4) In a report concerning the handing over of possession of a vehicle or other property registered in the Motor Register, a police officer records the particulars of the property and its overall condition, the particulars of the maintenance debtor and of the enforcement agent who entered the note concerning the handing over of such property. The officer transmits the report to the enforcement agent who entered the note.

(5) A specific list of particulars to be recorded in a report mentioned in subsection 4 of this section is enacted by a regulation of the Minister in charge of the policy sector.
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 71². Rights of a police officer when handing over a maintenance debtor's vehicle or other property registered in the Motor Register to the enforcement agent

(1) In order to hand over possession of a vehicle or other property registered in the Motor Register against which a note restraining disposal has been recorded in that register, a police officer may:

- 1) acquaint themselves with any information held in a police database concerning the vehicle or other property;
- 2) acquaint themselves with the particulars recorded in the Motor Register concerning the owner of the vehicle or other property and any notes prohibiting disposal or mandating the handing over of the vehicle or other property to the enforcement agent;
- 3) ascertain the identity of a possessor of the vehicle or other property in accordance with the rules provided by § 32 of the Law Enforcement Act;
- 4) stop the vehicle or other property in accordance with the rules provided by § 45 of the Law Enforcement Act;
- 5) take the vehicle or other property for preservation by using, in order to achieve this, if necessary, direct coercion in respect of the maintenance debtor in accordance with the rules provided by the Law Enforcement Act for as long as is unavoidably necessary to achieve the required purpose;
- 6) hand the vehicle or other property over to a person notified to the Police and Border Guard Board by the Chamber of Enforcement Agents and Trustees in Bankruptcy.

(2) A police officer may also acquaint themselves with the information provided for by clause 2 of subsection 1 of this section in order to ascertain whether or not a note mandating the handing over of the vehicle or other property to the enforcement agent is on record.
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 72. Entrusting attached property for safekeeping to a third party

(1) Where the enforcement agent does not assume possession of an item of attached property and does not leave it in the possession of the debtor, they may hand such an item over for safekeeping to a third party.

(2) A bailee of the property is appointed by agreement between the debtor and the party seeking enforcement.

(3) If the debtor and the party seeking enforcement do not agree on a bailee, one is appointed by the enforcement agent. The agent may not appoint, as bailee, the party seeking enforcement or any other person with a similar economic interest, or any relative of the agent's, by blood or marriage.

(4) A property item is handed over for safekeeping on the basis of an attachment notice. When handing over the item, the enforcement agent explains to the bailee their obligations and the consequences of violating them.

(5) Where the bailee, without justification, does not return the item that has been handed over to them for safekeeping when this is required by the enforcement agent, the party seeking enforcement may apply for the item to be seized from the bailee. Where seizure requires entry upon any premises or land used by the bailee, such an entry may be made under a court order. The order is made on an application of the enforcement agent.

(6) The bailee's fee and any costs incurred for the item's safekeeping are included in the costs of enforcement.

(7) The bailee's responsibility for the safekeeping and return of any item that they have been entrusted with is subject to the provisions of the Law of Obligations Act governing a bailee's liability. The party seeking enforcement is deemed the bailor.

§ 73. Third parties' objections to attachment

(1) A pledgee or any other person having a similar priority right in respect of a property item may not contest its attachment.

(2) If a third party, at the time of attachment, asserts to be the owner of the property item to be attached, a note concerning such an objection is made on the attachment notice. The enforcement agent explains to the third party their right to make a court claim for setting the attachment aside.

§ 74. Appraisal of attached property

(1) When an item of property is attached, such an item is appraised and its price is stated in the attachment notice.

(2) Where it is not possible to appraise the item of property at the time of attachment, an appraisal must be carried out without delay following that time. The results of the appraisal are stated in the attachment notice.

(3) Property items that have been attached are appraised by agreement between the debtor and the party seeking enforcement.

(4) Where the debtor and the party seeking enforcement do not agree concerning appraisal of the property, and also where at least one of them is not present at the time of attachment, the property is appraised by the enforcement agent.

(5) The enforcement agent appraises an item of property based on its usual value, taking account, among other things, of any rights of third parties encumbering the item and the possibility of such rights being subject to extinguishment.

(6) Where appraising an item of property presents difficulties, the enforcement agent commissions an expert to appraise the item.

(7) The debtor or the party seeking enforcement may contest a price determined by the enforcement agent by filing an appeal with the agent according to the rules provided by § 217 of this Code.

(8) Where the price is contested, the enforcement agent applies to the court to appoint an expert to arrange a new appraisal.

(9) The costs of appraisal by an expert appointed by the court are borne by the person who contested the appraisal. The person who contested the appraisal pays the costs of appraisal in advance. If such a person does not pay the costs by the time set by the court, they are deemed not to have contested the appraisal.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 75. Attachment notice

(1) When attaching an item of property, the enforcement agent creates the corresponding attachment notice; the form of the notice is enacted by a regulation of the Minister in charge of the policy sector.

(2) The attachment notice is signed by the enforcement agent, by the bailee to whom the item is handed over, by the debtor and by any other persons present at the time of attachment. Should a person refuse to sign, a corresponding note is made on the notice.

(3) An attachment notice is created as a single-copy original document, which is kept in the enforcement file. A copy of the notice is given to the debtor or any representative or full-age family member of the debtor present at the time of attachment, as well as to the party seeking enforcement and to the bailee.

(4) If the debtor is not present at the time of attachment, the attachment notice is served on the debtor. In such a situation, a property item is deemed to be attached as of service of the notice.

(5) Where the debtor or the party seeking enforcement who is present at the attachment of property does not make any representation or comment concerning such property, they do not have a right to file a complaint invoking the erroneous creation of the corresponding notice or to subsequently rely on its being erroneous.

§ 76. Attaching an item of property for the benefit of another party seeking enforcement

(1) In order to impose a second attachment on an item already attached, the enforcement agent adds, to the attachment notice, the particulars of the other party seeking enforcement and a note that the item has already been attached.

(2) If the first attachment on an item of property was imposed by another enforcement agent or by the Tax and Customs Board, a copy of the attachment notice must be served on them.

(3) A notice concerning each attachment must be served on the debtor and on the party seeking enforcement.

§ 77. Releasing the attachment of an item of property

(1) On an application of the party seeking enforcement and with the consent of the debtor, the enforcement agent releases the attachment of an item of property, even if the rest of the property that has been attached is not sufficient to execute the enforceable title.

(2) On an application of a third party, the enforcement agent releases the attachment of an item of property if it is evident that the item attached belongs to the third party. The enforcement agent notifies the party seeking enforcement, without delay, of having released the attachment.

(3) Where a third party applies for release of the attachment of an item of property and the enforcement agent refuses to grant the application, the agent explains to the third party their right to file a court claim for releasing the attachment.

(4) The enforcement agent releases the attachment of an item of property if the item cannot be sold within a reasonable period of time. The agent notifies the party seeking enforcement, without delay, of having released the attachment.

(5) When the attachment of an item of property subject to a registration requirement is released, the Registrar removes a restraining note recorded in the register on the enforcement agent's request.

Subchapter 2 Sale under Enforcement Procedure

§ 78. Public auction

(1) Unless otherwise provided by this Code, an item of movable property that has been attached is sold by the enforcement agent at a public electronic auction.

(2) Where an electronic auction is not possible for reasons beyond the control of the enforcement agent, an oral auction may be held.

(3) Where, according to an attachment notice, the price of items of movable property that have been attached is up to 2000 euros, the enforcement agent may delegate their sale to the Chamber.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 79. [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 80. Time of auction

(1) The time of an auction is determined by the enforcement agent.

(2) Unless the party seeking enforcement and the debtor agree on an earlier date, the enforcement agent may not hold an auction before ten days have elapsed after the item of property was attached.

(3) The enforcement agent may hold an auction before ten days have elapsed after attachment if it appears that, should the aforementioned time limit be observed, the value of the item of property to be auctioned would significantly decrease or if unreasonably high holding costs would be incurred by holding the item.

§ 81. Place of an auction

(1) Electronic auctions are held online in an electronic auction environment (hereinafter, 'auction environment').

(2) If the enforcement agent arranges a public oral auction, the agent determines the place where the auction is to be held, having regard to the possibilities for selling the item to be auctioned and the auction's costs.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 82. Starting price at the auction

(1) The starting price of an item of property at the auction is the price that results from the item's appraisal and that is stated in the attachment notice.

(2) The enforcement agent may change the starting price, after the notice of the auction has been published, on the grounds of being made aware of rights, and of their substantiation, provided the price stated in the attachment notice is likely to be different from the market price. A right of which, and of whose substantiation,

the agent has not been made aware after publication of the auction announcement is not taken into account when determining the starting price.

(3) Before changing the starting price, the enforcement agent asks the party seeking enforcement and the debtor to state their views concerning the change.

§ 83. Deposit at the auction

(1) Where an auction is arranged, the enforcement agent may set a deposit for the participants in an amount of up to ten per cent of the starting price. If a deposit has been set, any person who wishes to participate in the auction must pay it.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2) The deposit is paid, when registering for the auction, into the account specified by the enforcement agent or to the agent in cash. If the deposit is paid into the account specified by the agent, it is deemed to have been paid when the agent's account is credited with the corresponding amount. The deposit may be paid in cash if its amount does not exceed 640 euros.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2¹) If the deposit is paid in the auction environment using a method of payment that is provided by the service provider and that allows payments to be processed immediately, the deposit is deemed paid to the enforcement agent as of the crediting of the central account of the Chamber in the amount of the deposit. The person participating in the auction bears the costs relating to the payment of the deposit by such a method.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2²) The Minister in charge of the policy sector enacts, by regulation, detailed rules and requirements for payment of deposits in auction environments using a method of payment that is provided by the service provider and that allows payments to be processed immediately.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(3) The enforcement agent may also accept, as a deposit, a permanent payment warranty, irrevocable payment warranty or unconditional payment warranty of a credit institution of Estonia or another Member State of the European Union, which is issued for the amount of the deposit.

(4) The following persons are not required to pay the deposit:

- 1) the State or a municipality or the *Eesti Pank*;
- 2) the party seeking enforcement and the pledgee, if their claim covers the deposit required.

(5) The deposit paid by the purchaser is included in the purchase price; for other participants in the auction, their deposit is refunded on the working day following the date of the auction.

§ 84. Notification of an auction

(1) An auction announcement states:

- 1) the beginning and place of the auction and the rules and time limit for registering for the auction;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 2) a general description of the items of property to be auctioned;

3) the starting price, the rules for payment, the amount of the deposit and the time limit for the payment of the purchase price and of the deposit;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 4) the time and place for examining the items of property to be auctioned;

5) any ascertained rights of third parties encumbering the item of property to be auctioned and other encumbrances and restrictions relating to such an item;

6) an invitation to members of the public to inform, before the auction, the enforcement agent of their rights concerning the item of property to be auctioned – If the agent has not yet been informed of such rights – and to substantiate such rights if this is required by the agent;

7) an invitation to persons who hold rights that constitute an obstacle to the auction, to obtain, before the date of distribution of the proceeds, the termination or suspension of the auction under an agreement with the party seeking enforcement or under a judicial disposition;

- 8) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

9) where an auction is held electronically, the time when the auction is scheduled to end and its dynamic extension period.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

(2) The announcement is published at least ten days before the auction in the publication *Ametlikud Teadaanded* and in a public computer network. The enforcement agent may also publish the announcement in a newspaper which is circulated in the locality where the auction is to be held. At the request of the party seeking enforcement or of the debtor, the enforcement agent publishes the announcement in other publications at the expense of the party seeking enforcement or of the debtor.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2¹) [Repealed – RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(3) The debtor and the party seeking enforcement are informed of the substance of the auction's announcement at least ten days before the auction.

(4) The enforcement agent may also publish the announcement less than ten days before the auction or the auction may be given notice of by a method or within a time limit different from that provided by subsections 2 and 3 of this section if the item of property is likely to be destroyed or damaged or its value may decrease significantly.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 85. Right to examine the items of property to be auctioned

(1) From the publication of the announcement until the beginning of the auction, interested persons have a right to examine the items of property to be auctioned.

(2) The enforcement agent sets a specific time for examining the items. If the items are in the possession of the debtor, the debtor has a right to require that examination take place during the hours prescribed for enforcement operations. The enforcement agent must take the interests of the owner into consideration.

(3) Interested persons have a right to examine any representations made in respect of an item of property to be auctioned and any evidence concerning the item, including appraisal reports.

§ 86. Written bid

(1) A person who wishes to purchase an item of movable property at an oral auction of the movable may, until the beginning of the auction, submit to the enforcement agent a written bid which states:

[RT I 2009, 68, 463 – entry into force 01.01.2010]

- 1) the name, residence or seat of the person offering the price;
- 2) a general description of the item of property;
- 3) the price offered for the item of property.

(2) A written bid must be submitted in a closed envelope. The envelope is opened at the auction.

§ 87. Persons who are allowed to bid at an auction

(1) Unless otherwise provided by law, any person may participate at an auction as a bidder. The debtor and the party seeking enforcement may also make bids at the auction.

(2) Neither the enforcement agent nor a person who was present at the attachment of property as a witness, nor the person who is holding the auction or serves as a witness at the auction, nor any person acting for the account of such a person may participate in the auction, either in person or through a representative. The enforcement agent notifies this to participants of an oral auction before the beginning of the auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Any sale of the property to a person mentioned in subsection 2 of this section, and any disposal of such property by such a person is void. If a new auction must be held for this reason, the infringing person bears the costs of holding the new auction and pays any difference between the price offered by themselves and that offered at the new auction, should the price offered at the new auction be lower than the price offered by the person.

§ 87¹. Rules regarding registration for an auction

(1) Registration for an auction takes place before the auction begins.

(2) Where an item of movable property is to be auctioned whose value does not exceed 1000 euros, registration for the auction is possible immediately before the making of a bid.

(3) A person who wishes to participate in an auction registers themselves according to the rules and within the time limit stated in the auction's announcement and pays a deposit according to the rules provided by subsections 2 and 2¹ of § 83 of this Code.

(4) A person is registered as a participant in the auction if their registration application and any annexes to such an application comply with the requirements of the auction, if their deposit has been paid and if the person may participate in the auction as a bidder.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

§ 88. Rules for oral auctions

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) At the beginning of an oral auction, the enforcement agent makes an announcement that states any material conditions in relation to the property on auction, the parties seeking enforcement who participate in the proceedings, such parties' claims, the time of attachment of the items of property, the applications that have been made, the conditions of the auction and the starting price. The conditions of an oral auction include, among other things, the bidding increment which is set by the enforcement agent having regard to the value of the item of property on auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Where the starting price that has been set differs from the price stated in the attachment notice, at the beginning of the oral auction the enforcement agent must state the reasons for setting such a price.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) After the conditions have been announced, the enforcement agent opens any written bids that have been received and invites the participants to make additional bids.

(4) Property is sold at an oral auction in the order stated in the attachment notice.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(5) An oral auction is conducted in the presence of two witnesses, a representative of the municipality or a police officer.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 88¹. Rules for electronic auctions

(1) At the beginning of an auction, the enforcement agent makes an announcement in the auction environment which states, according to § 84 of this Code, any material conditions that relate to the property on auction and to the auction, as well as the starting price. The enforcement agent sets the bidding increment for the auction having regard to the value of the item of property on auction. Where this is justified, the agent may set a starting price which differs from the price stated in the attachment notice.

(2) An electronic auction is opened in the on-line environment at the time announced to the public by a method mentioned in subsection 2 of § 84 of this Code. An electronic auction remains open for at least five working days. The duration of an auction may be reduced in a situation mentioned in subsection 3 of § 80 of this Code.

(3) [Repealed – RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) When an auction has been opened, the participants start bidding from the starting price. The participants make their bids electronically in full euros in accordance with the bidding increment.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(5) An electronic auction terminates at the time stated in the auction's announcement. If a new bid is made during a final time segment of the auction that is equal to the auction's dynamic extension period, the duration of the auction is automatically extended by such a period and the auction lasts until bidding continues. The dynamic extension period is 1–60 minutes. If an auction whose duration has been automatically extended has not ended earlier, it ends when 120 hours have elapsed from the end time of the auction as stated in the announcement.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

(6) The Minister in charge of the policy sector may, by regulation, enact technical requirements for conducting electronic auctions.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 88². Rules for simplified auctions

(1) A simplified auction is conducted by a person authorised by the Chamber. A simplified auction must be conducted efficiently and at the minimum possible cost.

(2) An announcement of a simplified auction is published on the website of the Chamber at least three working days before the auction is held. The announcement states a general description of the items of property to be sold at the auction and the time and place for examining such items.

(3) The debtor and the party seeking enforcement must be informed of the substance of the announcement of a simplified auction at least three working days before the auction.

(4) The time limit mentioned in subsections 2 and 3 of this section does not apply if the item to be auctioned is highly perishable.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 89. Rejection of bids

(1) The enforcement agent rejects any invalid bid. Primarily, the following are deemed to be invalid:

- 1) a bid that does not cover the starting price;
- 2) a bid by a person who is not allowed to participate in the auction;
- 3) a contingent bid.

(2) The enforcement agent may reject a bid made with the intention of causing the auction to fail.

(3) If the validity of a bid depends on the scope of authority of the bidder's representative, or on the consent of another person, the enforcement agent rejects the bid unless the authority or consent is proved without delay.

§ 90. Duration of an oral auction

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) An oral auction is continued until the enforcement agent's call for bids elicits no further overbids.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 91. Declaration of winning bid

(1) Where the auction is an oral one, the enforcement agent announces, at the auction, the last overbid and the end of the auction. The last overbid at an oral auction is declared to be the winner after it has been announced three times.

(2) Where the auction is an electronic one, the bid with the highest price submitted in the auction environment by the end of the auction is declared to be the winner.

(3) If the winning bidder has assigned the rights to purchase the item to another person and the other person also assumes the obligations arising from the winning bid, the corresponding applications are made to the enforcement agent during the time limit for payment of the purchase price.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) The enforcement agent does not declare a bid the winner if the conditions of the auction have been materially violated or if the auction or a continuation of the auction is barred by a right of a third party.

(5) The winning bid is announced to the participants of an oral auction at the place of the auction on the day of the auction and, in an electronic auction, in the auction environment on the working day following the date of the auction. If a bidder was present at the opening of the bids, they are deemed to have been informed of the results of the auction. In exceptional cases, the enforcement agent may postpone the announcement by up to seven days. The agent notifies any postponement to the participants of the auction without delay.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) A declaration of the bid to be the winner becomes effective at the time it is announced.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 92. Objections of persons present at an oral auction

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) After the announcement of the last overbid, the persons present may voice their objections to the conduct of the auction. They are informed of this right by the enforcement agent.

(2) The enforcement agent records the objections in the report of the auction.

(3) If the persons present voice no objections, they do not have a right to complain of the report having being created inaccurately, nor may they subsequently invoke such inaccuracies or any material violation of the auction's conditions.

§ 92¹. Objections of participants in an electronic auction

Participants in an electronic auction may file objections concerning the conduct of the auction within the working day following the date on which the auction ended. Any objections that are filed and the consequences of failure to file an objection are subject to the provisions of subsections 2 and 3 of § 92 of this Code.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 93. Obligation to pay the purchase price immediately

(1) The winner of an oral auction pays the purchase price immediately after the end of the auction.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Where the purchase price exceeds 12,700 euros, the winner of the oral auction must pay one tenth of the purchase price immediately after the end of the auction and the rest of the price must be paid within 15 days. Where the debtor is the purchaser, they must immediately pay the entire purchase price.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(2¹) The winner of an electronic auction must pay the purchase price on the working day following the date of termination of the auction by a method provided for by subsection 3 of this section. If the purchase price exceeds 12,700 euros, one tenth of the purchase price must be paid on the working day following the date of termination of the auction and the rest of the price must be paid within 15 days. Where the debtor is the purchaser, the entire purchase price must be paid on the working day following the date of the auction.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) For the purposes of subsections 1 and 2 of this section, immediate payment means payment of the purchase price in cash or to the account specified by the enforcement agent. If the purchase price is paid to the account specified by the agent, the purchase price is deemed to have been paid to the enforcement agent as of the crediting of the account of the enforcement agent with the amount of the purchase price. The agent may accept as immediate payment also a permanent, irrevocable and unconditional payment warranty of a credit institution of Estonia or if another Member State of the European Union provided at least for the amount of the purchase price.
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) If the purchaser is the party seeking enforcement and if the party's claim exceeds or is equal to the purchase price, a set-off is made with such a claim to the extent that corresponds to the share the party would be entitled to receive on distribution of proceeds from the sale of the property purchased. The share of the purchase price that was not set off is paid by the party to the official bank account of the agent according to the rules provided by this section.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(5) The item of property is handed over to the purchaser after the entire purchase price has been paid.

(5¹) If the purchase price is paid in the auction environment by means of a method of payment which is provided by the payment service provider and which allows the payment to be processed immediately, the purchase price is deemed to have been paid to the enforcement agent as of the time when an amount covering that price is credited to the central account of the Chamber. The buyer covers the costs related to payment of the deposit by the same method.
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(5²) The Minister in charge of the policy sector enacts, by regulation, detailed rules and requirements for payment of the purchase price in auction environments using a method of payment which is provided by the payment service provider and which allows payments to be processed immediately.
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) Where this is requested by the purchaser, the enforcement agent extends the time limit for the payment of the purchase price provided for by subsections 2 and 2¹ of this section by an additional period of 15 days. The agent issues the extension as a decision. The decision is transmitted to the debtor, to the party seeking enforcement, to the person who made the winning bid and to any persons whose rights regarding the property item on auction are known to the enforcement agent.
[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

§ 93¹. Payment of the purchase price by means of a loan

(1) If a purchaser wishes to buy an item of property sold at an auction by means of a loan issued by a credit institution, they notify this to the enforcement agent without delay after their bid is declared to be the winner. Immediate notification means notification that is made to the enforcement agent on the date on which the bid was declared the winner.

(2) The obligation provided by § 93 of this Code, to pay one tenth of the purchase price or the entire purchase price without delay, does not apply to the purchaser when the purchase price is to be paid by means of a loan. The purchaser undertakes to pay the entire purchase price or arrange for the performance of the obligation to pay the purchase price by a credit institution within 15 days from the day following the date the purchaser's bid was declared to be the winner.

(3) The debtor cannot apply to pay the purchase price by means of a loan.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 94. Increasing the amount to be paid

(1) If it turns out, after the auction, that the security right or any other right taken into account when determining the starting price is not valid or has been extinguished, a purchaser who knew or should have known that such a right is not valid or has been extinguished must also pay, in addition to the purchase price, the amount provisioned on determination of the starting price to the extent of the right's value.

(2) The provisions of subsection 1 of this section also apply if the right is conditional and the suspensive condition is not, or the resolutive condition is, fulfilled and the purchaser knew or should have known that when making their bid.

§ 95. Acceptance of proceeds of auction

(1) The proceeds of an auction is the amount of money corresponding to the winning bid. The proceeds are paid to the enforcement agent. The rules governing reception and handing over, to the party seeking enforcement, of the proceeds are enacted by a regulation of the Minister in charge of the policy sector.

(2) Any amount that remains after enforcement costs have been covered and the claim has been satisfied is returned to the debtor.

§ 96. Auction report

(1) The enforcement agent creates an auction report which is signed by the agent and by the witnesses. The form of the report is established by a regulation of the Minister in charge of the policy sector.

(2) Among other things, the report of an auction states the following particulars:

- 1) the particulars of the item of property on auction;
- 2) the name and personal identification code or register code of the purchaser;
- 3) the price of the winning bid and the method of and time limit for payment;
- 4) the conditions for the item to be handed over.

(3) Where an item of property must be recorded in the name of the purchaser in a register, such registration is performed on the basis of a copy of the auction report.

(4) The enforcement agent serves the auction report on the party seeking enforcement, to the debtor, to the person who made the winning bid and to any persons whose rights regarding the item of property on auction are known to the agent.

§ 97. Termination of auction before sale of items of property

(1) An oral auction is terminated if, after the beginning of the auction but before the last bid is declared the winner, the debtor or a third party who has a right to pay the claim of the party seeking enforcement pays, to the enforcement agent, a sum of money required to provide satisfaction of the claim of the party seeking enforcement and to cover the costs of enforcement.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1¹) If the debtor's property is sold at an electronic auction, the debtor has a right to satisfy the claim of the party seeking enforcement before the end of the electronic auction. If the debtor or a third party pays, to the enforcement agent, a sum of money required to satisfy the claim of the party seeking enforcement and to cover the costs of enforcement, the agent, without delay, cancels the auction that is being conducted in the auction environment and notifies the participants of the auction's termination. Any deposits paid by the participants are refunded not later than on the next working day.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) When the money received at the auction from the sale of a portion of the items of property is sufficient to satisfy the claim of the party seeking enforcement and to cover the costs of enforcement, the auctioning of the remaining items of property is terminated.

§ 98. Legal consequences of an auction

(1) The right of ownership regarding an item of property sold at an auction arises when the item of property is handed over on the basis of the auction report.

(2) The right of ownership does not arise if the attachment is void or if material conditions of the auction have been infringed and the court has declared the auction void. This applies regardless of whether or not the person who purchased the item of property at the auction was aware of the aforementioned circumstances.

(3) The prerequisites provided by the Law of Property Act do not need to have been complied with for the right of ownership to arise – primarily, the claim stated in the enforceable title does not need to exist actually and the item of property sold at the auction does not need to belong to the debtor. This does not preclude the making of claims for compensation for unlawfully caused harm.

(4) Where the acquiring party has paid the price of the auction but, due to the reasons mentioned in subsection 2 of this section, no right of ownership arose, they may make a claim against the party seeking enforcement on the grounds of unjustified enrichment. This does not preclude claims for compensation for unlawfully caused harm.

(5) The right of pre-emption cannot be exercised at an auction.

§ 99. Failure of an auction

(1) The enforcement agent declares an auction to have failed, if:

1) no participants appear at the auction or no written or electronic bids are submitted;
[RT I 2009, 68, 463 – entry into force 01.01.2010]

2) no bid is submitted that would at least match the starting price;

3) the winning bidder does not pay the purchase price, or one tenth of such a price, by the prescribed time;

4) all bids are rejected.

(2) When an auction fails, the security right on attached property that arose in favour of the party seeking enforcement remains in effect.

§ 99¹. Suspension of auction due to interruption in auction environment

If there is an interruption in the auction environment during the end phase of an auction, the auction is suspended for the duration of the interruption and continues after the interruption ends. The end time of the auction is extended by the period for which the auction was interrupted.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

§ 100. Repeat auction

(1) Where an auction fails, the party seeking enforcement may require a repeat auction to be held.

(1¹) If a repeat auction is organised, the enforcement agent selects either an electronic or an oral auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) A repeat auction is not held earlier than ten days after the first auction is declared to have failed, except in the situation provided for by subsection 4 of § 84 of this Code.

(3) If the purchaser violates the obligation to pay, for the item of property purchased at the auction, the purchase price or one tenth of the purchase price, the item is immediately put up for a repeat auction. At an oral auction, the enforcement agent, when concluding the auction, informs the participants of the possibility of holding a repeat auction. In such a case, the agent does not have a right to reduce the price of the item at the repeat auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) An initial purchaser may not participate in a repeat auction held due to the circumstances mentioned in subsection 3 of this section. The deposit paid by such a purchaser is not refunded, and is transferred to the common part of the Chamber's budget. The initial purchaser must also pay the difference between the price offered by them and the price offered at the repeat auction, if the price offered at the repeat auction is lower than the price offered by the initial purchaser. The debtor has a right to collect the aforementioned price difference from the initial purchaser.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

[RT I, 27.06.2019, 2 – entry into force 21.06.2019 – by judgment of the Constitutional Review Chamber of the Supreme Court, the second sentence of subsection 4 of § 100 of the Code of Enforcement Procedure is declared unconstitutional and invalid insofar as the enforcement agent has no discretion in deciding, concerning the return of the deposit paid by a participant in an auction held as part of enforcement proceedings, on the proportion in which the deposit must be returned to the person who paid it and on the proportion that must be transferred to the common part of the budget of the Estonian Chamber of Enforcement Agents and Trustees in Bankruptcy.]

(5) A repeat auction is conducted according to the rules set for the first auction. The enforcement agent may reduce the price of the items, but not more than by 25 per cent compared to the starting price of the previous auction, having asked the debtor and the party seeking enforcement or, in a situation provided for by subsection 1 of § 51¹ of this Code, the trustee in bankruptcy in the stead of the debtor, to state their opinion concerning the reduction. The price of the items may not be reduced by more than 70 per cent compared to their starting price at the first auction.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

§ 101. Sale of an item of property by another method

(1) On an application of the party seeking enforcement and of the debtor, the enforcement agent may sell attached items of property using a method other than an oral or electronic auction, provided the auction has failed or it can be presumed that the item of property cannot be sold at an auction or the proceeds estimated from the item's sale at an auction are significantly lower compared to the proceeds of a sale by another method.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Where an auction has failed due to the obligation to pay the purchase price not having been complied with, the enforcement agent may sell property by a method other than an auction only if the repeat auction too has failed.

(3) The enforcement agent serves a notice of intention to sell items of property by another method on the debtor and on the party seeking enforcement. Without the consent of a party, the agent may not sell the items before seven days have passed after service of the notice.

(4) When selling by another method, the enforcement agent may reduce the property's price, but not more than by 50 per cent compared to the price stated in the attachment notice, after requesting the opinion of the debtor and of the party seeking enforcement concerning the reduction.

(5) The enforcement agent may sell an item of property to the party seeking enforcement. In such a case, a set-off is made with the claim of the party seeking enforcement and the purchase price is deemed to be paid by the debtor to the party seeking enforcement to the extent of the debt. If the purchase price is lower than or equal to the claim of the party seeking enforcement, the provisions of subsection 4 of § 93 of this Code apply to the set-off.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(6) With respect to the sale of an item of property by another method, the enforcement agent creates a report in the form approved by the Minister in charge of the policy sector. A copy of the report serves as the basis for recording the right of ownership in a register.

(7) Unless otherwise provided by law, the provisions concerning legal consequences of an auction apply, accordingly, to the legal consequences of a sale by another method.

§ 101¹. Sale of an item of movable property of negligible value by another method

(1) Where, according to the attachment notice, the price of an attached item of movable property does not exceed 100 euros and where it is impractical to hold an auction, the enforcement agent sells the item by another method. The agent may also arrange the sale of the item through a person whose usual business consists in the selling of items of property.

(2) The enforcement agent issues a decision concerning the sale of items of property of negligible value by another method and serves it on the debtor and on the party seeking enforcement. Among other things, the agent states in the decision a list of the items of property to be sold by another method, the requirements for reducing the items' price, the items' minimum selling price and the place of sale.

(3) Information concerning the sale of an item of movable property of negligible value by another method is published on the website of the Chamber at least three working days before the item is handed over for sale. The information contains, among other things, the name of the enforcement agent, a general description of the items to be sold and the place of sale.

(4) The time limit mentioned in subsection 3 of this section does not apply if the item of property may become unfit for use.

(5) When an item of movable property of negligible value is being sold by another method, the item's price may be reduced every five working days by up to ten per cent compared to the price stated in the attachment notice. If the item is not sold, it is returned to the debtor. Items of property which cannot be returned to the debtor may be destroyed or given away for a charitable purpose.

(6) The enforcement agent records, in the enforcement file, particulars concerning the name of the item of property sold, the details of the selling price, the time of the sale and the person through whom the agent arranged the sale.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

§ 102. Sale of an item of property under supervision of the enforcement agent

(1) On an application of the debtor and with the consent of the party seeking enforcement, the enforcement agent may allow the debtor themselves to sell an attached item of property under the supervision of the enforcement agent.

(2) The enforcement agent may also allow the debtor to sell an item of property regardless of the consent of the party seeking enforcement if its auction has failed or if it may be presumed that the item cannot be sold at an auction or the proceeds estimated from the item's sale at an auction are significantly lower compared to the proceeds of a sale arranged by the debtor. If the auction failed due to the obligation to pay the purchase price not having been complied with, the agent may only allow the debtor to sell items of property without the consent of the party seeking enforcement if the repeat auction too has failed.

(3) The enforcement agent serves a notice on the party seeking enforcement concerning the debtor's request to sell an item of property by another method, except where the party's consent for such a sale is presented to the agent. The agent does not grant their consent to the debtor for the sale before seven days have passed after service of the notice on the party seeking enforcement, unless the party seeking enforcement responds to the notice earlier.

(4) The enforcement agent does not allow the debtor to sell property at a price below that stated in the attachment notice. The agent takes steps to ensure that the proceeds of the item's sale are paid into the agent's official bank account.

(5) The enforcement agent may consent to the sale of an item of property to the party seeking enforcement. In such a case, a set-off is made with the claim of the party seeking enforcement and the purchase price is deemed to be paid by the debtor to the party seeking enforcement to the extent of the debt. If the purchase price is lower than or equal to the claim of the party seeking enforcement, the provisions of subsection 4 of § 93 of this Code apply to the set-off.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(6) A sale of an item of property under supervision of the enforcement agent takes place in accordance with the rules prescribed by the Law of Obligations Act concerning the contract of sale. The agent grants their consent for the sale.

§ 103. Passing of risk of accidental loss of a sold item of property and liability for the item's defects

(1) When an item of property is sold under enforcement procedure, the risk of accidental loss of such an item passes to the purchaser at the time when the item is handed over. As of such handing over, the purchaser bears all costs and encumbrances related to, and takes all benefits deriving from, the item.

(2) When an item of property is sold under enforcement procedure, neither the enforcement agent nor the debtor is liable for any defects of the item. This does not preclude an eventual liability of the agent or debtor for unlawfully caused harm.

(3) The provisions of subsections 1 and 2 of this section do not apply when an item of property is sold by the debtor under supervision of the enforcement agent.

§ 104. Extinguishment of third parties' property rights upon a sale

(1) When the right of ownership is created regarding an item of property sold by the enforcement agent, any property rights that encumbered the item in favour of a third party are extinguished, unless otherwise provided by law. Any right of the party seeking enforcement that gave rise to the claim for whose fulfilment the item was levied on is also deemed to have been extinguished.

(2) A third party's property right in respect of the sold item is not extinguished if the holder of such a right and the purchaser so agree or if the right was created before the right which was the reason for enforcement proceedings.

(3) When an item of property is sold by the debtor under supervision of the enforcement agent, the rights of third parties regarding the item are extinguished according to the provisions of the Law of Property Act.

Subchapter 3 Distribution of Proceeds between Parties Seeking Enforcement

§ 105. Distribution of the proceeds of a sale of items of property

(1) The enforcement agent distributes the proceeds of a sale of items of property between the parties seeking enforcement and other persons entitled to a share of such proceeds in the order in which their security rights were created or according to an agreement between the parties seeking enforcement. For the purposes of distribution of proceeds, security rights that were created at the same time have the same ranking.

(2) The enforcement agent transfers funds to the parties seeking enforcement and to other persons entitled to a share of the proceeds within ten working days following the funds' being credited to the agent's official bank account or, if there is a distribution plan, following approval of such a plan, but not before a mortgage which is to be recorded in the Land Register in order to secure an obligation to repay a loan granted by a credit institution for financing the purchase of an item of immovable property sold in enforcement proceedings is recorded in the Register.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 106. Distribution of proceeds under a distribution plan

(1) If the proceeds are not sufficient to satisfy all claims and the parties seeking enforcement are unable to reach an agreement concerning distribution of the funds, the enforcement agent arranges the distribution of such proceeds between the parties seeking enforcement that participate in the enforcement proceedings according to a distribution plan.

(2) A distribution plan is created and proceeds are distributed based on the ranking of security rights. Enforcement costs are deducted from the proceeds to be distributed under the distribution plan.

(3) Where, at the time when the distribution plan is created, it is unclear whether a purchaser must pay an additional amount under § 94 of this Code, such an amount is included in the distribution plan on a conditional basis, to be distributed later, when it has been received.

(4) The enforcement agent serves the distribution plan on the parties seeking enforcement and informs them of their right to make a court claim for amending the plan, should they disagree with it.

§ 107. Giving effect to a provisional and to a contingent claim

(1) At the distribution of proceeds, a provisional claim is deemed to have become due and is subject to fulfilment.

(2) If the claim does not include interest, the enforcement agent, according to § 94 of the Law of Obligations Act, deducts, from the amount of the claim, interest for the period starting with the date when proceeds are paid out and ending with the claim's due date.

(3) Where a claim is subject to a suspensive condition, the enforcement agent deposits the relevant amount in favour of the party seeking enforcement. The amount is deposited under conditions equivalent to those of the claim. The agent disburses the deposited amount to the entitled person provided the claim becomes due.

(4) In a situation mentioned in subsection 3 of this section, the entitled person's entitlement to the deposited amount is extinguished ten years following its deposition if the person has not presented themselves within that period to receive the deposited amount.

(5) After expiry of the period provided for by subsection 4 of this section, the deposited amount is paid out to the person who was the owner of the item of property at the time it was sold. If the owner does not claim payment of the amount within one year after the right to claim it arose, the funds are transferred to the State budget.

§ 108. Application by a person who is not the party seeking enforcement to satisfy the applicant's claim from the proceeds

(1) A pledgee or another person holding a priority right in respect of an item of property may, before the distribution of proceeds, make an application to the enforcement agent in which they request fulfilment of their claim from the proceeds on a priority basis, regardless of whether or not the claim has become due. Documents serving as proof of the right must be annexed to the application.

(2) A person whose right is to be extinguished by compulsory enforcement may, before the sale of the item of property, make an application to the enforcement agent to be compensated out of proceeds for the extinguished right. Documents serving as proof of the right must be annexed to the application.

(3) The enforcement agent transmits the application of the third party to the debtor and to the parties seeking enforcement together with the documents serving as proof of the right.

(4) When distributing any proceeds and when creating the distribution plan, the enforcement agent takes the claim of a pledgee or of another person holding a priority right into account according to the right's ranking, provided the applicant's security right appears in a register on which members of the public may rely or provided the contract on which the pledge or other priority right is based has been authenticated by a notary.

(5) The claim of the holder of a right which is to be extinguished by compulsory enforcement is taken into account by the enforcement agent based on the earlier ranking of such a right, provided the right has been proven before the sale. If the right did not appear in a register on which members of the public may rely, the claim is fulfilled after the claims of the parties seeking enforcement. If notification of the right has not been made at a proper time, the claim arising from the right is fulfilled after all other claims.

(6) If the parties seeking enforcement and the debtor do not inform the enforcement agent before the distribution of the proceeds that they contest an application, the applicant's claim is taken into account according to its ranking when distributing such proceeds or when creating a distribution plan.

(7) If an applicant's claim is not taken into account when distributing the proceeds or when creating a distribution plan, the enforcement agent explains to the applicant that it is possible to make a court claim to seek recognition of their claim. The court claim may be made within 15 days following the time when the applicant became aware of the decision not to take their claim account.

§ 109. Contestation of a distribution plan and deeming such a plan approved

(1) Within 15 days following service of a distribution plan, the party seeking enforcement may file a court claim contesting the distribution plan with the district court in whose judicial district the office of the enforcement agent conducting the distribution proceedings is located, naming as defendants the enforcement agent and any of the other parties seeking enforcement who are concerned.

(2) The court may, for the duration of proceedings on the court claim, suspend the execution of the distribution plan insofar as it has been contested.

(3) If, within 20 days following service of the distribution plan on the parties seeking enforcement, the enforcement agent has not received notification that a court claim contesting the distribution plan has been made, the plan is deemed to have been approved and the agent pays out the proceeds, having regard to the special rules provided by subsection 2 of § 105 of this Code.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) Where such relief is sought by the claimant, the court may amend the distribution plan or require the enforcement agent to create a new plan.

Chapter 7 LEVIES ON PECUNIARY RIGHTS

Subchapter 1 General Provisions

§ 110. Application of provisions governing levies on movable property

Unless otherwise provided for by this Chapter, the provisions governing levies on movable property apply to levies on pecuniary rights.

§ 111. Levy on a claim

In order to levy on a claim, the enforcement agent attaches the claim and directs the third party who owes an obligation to the debtor to perform the obligation to the enforcement agent for the benefit of the party seeking enforcement. In an attachment notice, the enforcement agent restrains the debtor from disposing of the claim, in particular from collecting the claim.

§ 112. Claims that cannot be levied upon

(1) Unless otherwise provided by law, a levy cannot be made on a claim that cannot be assigned.

(2) A claim whose assignment is precluded or restricted by an agreement between the parties may be levied upon.

(3) A claim which may not be assigned because the obligation cannot be performed to anyone else other than the existing creditor without changing the nature of the obligation may be levied upon provided the object owed can be attached.

(4) A claim for compulsory portion of an estate may be levied on only if the debtor has concluded an agreement with – or has filed a court claim against – the heir or beneficiary for receiving the portion. The same applies to a donor's claim for return of the gift and to a debtor's claim for compensation for non-pecuniary harm.
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

§ 113. Attachment of a contingent claim and of a future claim

- (1) A contingent claim may be attached.
- (2) A future claim may be attached provided it can be sufficiently specified at the time of attachment.

§ 114. Attachment notice concerning a claim

- (1) An attachment notice concerning a claim must contain the following particulars:
 - 1) the amount to be collected;
 - 2) a general description of the claim subjected to attachment;
 - 3) a reference to the enforceable title;
 - 4) a direction to perform the obligation to the enforcement agent instead of the debtor.
- (2) Where a future claim is attached, this must be stated in the attachment notice concerning the claim.
- (3) The enforcement agent serves the attachment notice on the third party who owes an obligation to the debtor. The agent serves the attachment notice on the debtor without delay after having served the notice on the third party.

(3¹) The enforcement agent serves the attachment notice on a person who is a user of the Enforcement Register provided for by § 63 of this Act via that register.
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]
- (4) A claim has been attached when an attachment notice has been served on the third party who owes the obligation to the debtor.

(5) Where the enforcement agent has sent, to a third party for execution, the notice by which the agent attached the claim, the notice is also deemed to be effective in respect of any claims that accrue to the debtor in the future. The attachment notice remains effective until the claim has been satisfied. When the claim has been satisfied, the enforcement agent revokes the notice without delay and notifies the revocation to the third party who owes the obligation to the debtor.
[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

§ 115. Levy on the debtor's account

- (1) A levy may be made on the debtor's account, with the exception of an account opened under the Simplified Business Income Taxation Act insofar as such an account holds amounts reserved to cover business income tax. A credit or payment institution provides information to the enforcement agent concerning the existence or absence of such an account.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]
- (2) An account is attached on the basis of the corresponding attachment notice to the extent indicated in such a notice. The money in the account – to the extent it has been attached under the attachment notice – is transferred to the enforcement agent's official bank account except where the enforceable title is other than an interim relief order concerning a child's claim for maintenance pending judicial proceedings. If, at the time of attachment, the amount in the debtor's account falls short of that stated in the attachment notice, any amounts subsequently credited to the account are also deemed attached up to the amount of the shortfall. Any amounts credited to the account after attachment are transferred to the enforcement agent's official bank account until the attachment notice has been complied with.
[RT I 2007, 25, 130 – entry into force 01.01.2008]
- (3) An attachment notice is transmitted to a credit or payment institution electronically via the information system whose use is obligatory for enforcement agents. An account is deemed attached when the credit or payment institution has received the corresponding electronic attachment notice. The enforcement agent transmits the attachment notice to the debtor without delay after having received information from the credit or payment institution concerning the imposition of electronic attachment.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]
- (4) A credit or payment institution that does not use the Enforcement Register undertakes to accept attachment notices on paper or in a digitally signed form, and to arrange the execution of such notices without delay. If, at the time an account is attached, it does not have the funds needed to execute the attachment, the credit or payment institution notifies this to the enforcement agent without delay. The enforcement agent transmits the attachment notice to the debtor without delay after having learned of a partial or full execution of the notice.
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]
- (5) Where the enforcement agent has sent an attachment notice concerning the debtor's account to a credit or payment institution for execution, such a notice is also deemed to be effective in respect of any future accounts

to be opened by the debtor. Any account that is opened is attached as of its opening unless the opening of the account is verified electronically through the Enforcement Register provided for by § 63 of this Act.
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

(5¹) A credit or payment institution may refuse to open an account for the debtor if an attachment notice received from an enforcement agent is being executed at the same institution regarding the debtor's account.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(6) When the attachment notice has been complied with, the attachment of the person's account is revoked. When the claim is satisfied, the enforcement agent revokes, without delay, all attachment notices issued to enforce it and notifies the revocation to each credit or payment institution to which an attachment notice was sent.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(7) The form of an attachment notice and the rules and technical requirements for electronic attachment are enacted by the Minister in charge of the policy sector.

§ 116. Special rules for attaching a claim secured by a mortgage or by a real encumbrance

(1) In order to attach a claim secured by a mortgage, in addition to effecting service of the corresponding attachment notice, an entry concerning attachment of the mortgage must be made in the Land Register on the basis of the attachment notice. The enforcement agent sends the attachment notice and the application to record a restraining note to the Land Registry Department.
[RT I 2010, 38, 231 – entry into force 01.07.2010]

(2) Where an attachment notice has been served on a third party who owes an obligation to the debtor before the entry concerning the attachment is made, the attachment operates in respect of the person as of the time of the service.

(3) Unless otherwise provided by law, the provisions of subsections 1 and 2 of this section also apply to a levy on a real encumbrance and to attaching a claim secured by a maritime mortgage or a security right recorded in the Register of Civil Aircraft.

§ 117. Explanations of a third party who owes an obligation to the debtor

(1) On an application of the party seeking enforcement, the enforcement agent imposes, on a third party who owes an obligation to the debtor, the obligation to inform the enforcement agent, within a time limit set by the enforcement agent, whether:

- 1) they recognise the existence of the debtor's claim and are prepared to perform the obligation;
- 2) any other persons have filed claims regarding the claim, and what the substance of such claims is;
- 3) the debtor's claim has already been attached for the benefit of other parties seeking enforcement, and what the substance of their claims is.

(2) A third party who owes an obligation to the debtor is liable for any harm that is caused to the party seeking enforcement due to the third party's failure to perform the obligation to inform the enforcement agent.

(3) The enforcement agent transmits any information they have received to the party seeking enforcement without delay.

§ 117¹. Obligation of a third party to provide information in relation to a cash transaction

(1) Where, under a statute or a regulation, the person must be identified before a monetary obligation owed to them is performed, and where performance of such an obligation is to be made in cash and its amount exceeds 5000 euros, the person subject to the duty to identify must, as a preliminary matter, establish whether they are dealing with a maintenance debtor. If this is the case, the person subject to the duty to identify refuses to perform their obligation to the maintenance debtor and, without delay, notifies the enforcement agent who is conducting proceedings on the maintenance claim of the debtor's claim against them.

(2) In a situation mentioned in subsection 1 of this section, a person subject to the duty to identify may perform their monetary obligation to a maintenance debtor, provided the enforcement agent has not attached the corresponding claim within five days of the sending of the notice.

(3) Where, regardless of the provisions of subsections 1 and 2 of this section, a person subject to the duty to identify performs a monetary obligation to a maintenance debtor in cash, the obligation that such a person owes to the maintenance debtor is deemed not to have been performed, and the enforcement agent may require, by means of an attachment notice, that the person perform the monetary obligation to the enforcement agent's official bank account for the benefit of the party seeking enforcement of a maintenance claim.

(4) The obligation provided for by this section does not apply to a credit institution within the meaning of the Credit Institutions Act.
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 118. Collecting a claim from a third party

(1) When a claim is attached, the party seeking enforcement has a right to require that a third party who owes performance of the corresponding obligation to the debtor perform such an obligation to the enforcement agent, for the benefit of the party seeking enforcement; this also includes the right to file a court claim against the third party who owes an obligation to the debtor. Where enforcement is sought by several parties, each party may file a court claim to require performance of the attached claim for the benefit of all such parties.

(2) The debtor must provide, to the party seeking enforcement, the information necessary to collect the debtor's claim together with any documents relating to the claim. In order to obtain such information, the party seeking enforcement may apply for the debtor to be required to take an oath and, in order to obtain such documents, apply for any enforcement operations required for the reclamation of an item of movable property to be performed by the enforcement agent.

(3) The party seeking enforcement who has filed a court claim against a third party who owes an obligation to the debtor to obtain performance of the claim must, in proceedings before the court, make a motion for the debtor to be added to the proceedings as a third party, except where the residence or seat of the debtor is outside the Republic of Estonia and the debtor does not have a representative in Estonia or where adding the debtor would have to be effected by service by public notice.

(4) The debtor may require the party seeking enforcement to compensate for any harm arising from a delayed filing of a court claim or from failure to join the debtor to proceedings as a third party.

§ 118¹. Compulsory enforcement of a child's claim for periodic maintenance payments: levy on a monetary obligation performed to a third party

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(1) Where the monetary obligation that was or the total of such obligations that were performed on behalf of the debtor to a third party exceeds the amount that, by law, constitutes the debtor's non-attachable earnings, the enforcement agent may, when enforcing the child's claim for periodic maintenance payments, require the third party, by an attachment notice, to reverse such performance by transferring the corresponding amount to the agent's official bank account for the benefit of the party seeking enforcement of the claim.

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(2) Under subsection 1 of this section, a third party may be required to reverse the performance, made towards a monetary obligation, of an amount that exceeds non-attachable earnings as provided for by law in respect of the debtor. The third party is under a duty to reverse the performance of any monetary obligations that are performed to that party on behalf of the debtor following service of the attachment notice mentioned in subsection 1 of this section.

(3) When, under subsection 1 of this section, the enforcement agent attaches a monetary obligation performed to a third party, such an obligation is deemed not to have been performed to the third party.

(4) Subsection 1 of this section does not apply where the obligation is performed on behalf of the debtor by a third party who is a joint and several debtor or has provided a security for the obligation.

(5) Taxes and contributions to the mandatory funded pension, health insurance and unemployment insurance schemes are not subject to attachment under subsection 1 of this section.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

§ 119. Distributing the proceeds of a levy on a monetary claim

(1) Where several enforcement agents have attached a monetary claim for the benefit of several parties seeking enforcement, the third party who owes the obligation to the debtor, including any credit institution, pays money to the agents in the order of arrival of their attachment notices. An attachment notice issued on the basis of a child's claim for maintenance is deemed to have arrived as the first regardless of its time of arrival.

[RT I 2007, 25, 130 – entry into force 01.01.2008]

(2) Where money received from the claim is not sufficient to satisfy all enforceable claims that have been filed, the enforcement agent distributes it following the chronological order of the relevant attachment notices according to the rules prescribed for distributing the proceeds of the sale of movable property.

§ 120. Provisional attachment of the claim

(1) The party seeking enforcement may, prior to the imposition of attachment, have the enforcement agent serve, on the basis of an enforceable title, on the debtor and on a third party who owes an obligation to the debtor a notice to the effect that, due to the envisaged attachment, the third party who owes an obligation to the

debtor is not to make payments to the debtor and the debtor is not permitted to dispose of the claim, in particular collect the claim.

(2) A notice of provisional attachment served on a third party who owes an obligation to the debtor has the same legal consequences as an attachment imposed in the course of enforcement proceedings, provided attachment of the claim ensues within 30 days following service of the notice.

§ 121. Other methods of levy on a claim

(1) Where a claim that has been attached is contingent or its performance has been deferred, or if collection of the claim is complicated due to a counterclaim or for other reasons, the enforcement agent may, on an application of the party seeking enforcement or of the debtor, make a levy on such a claim by a method other than requiring a third party in respect of the debtor to perform the obligation. The agent may sell such a claim.

(2) The enforcement agent serves an application for levy by another method on the party seeking enforcement or on the debtor, except where the counterparty's consent regarding such a levy is presented to the agent. The agent does not decide on such a levy before eight days have elapsed following service of the notice on the applicant's counterparty, unless the counterparty has responded to the notice earlier.

§ 122. Special rules for levying on a claim for surrender of possession or ownership of an item of movable property

(1) Where a claim for surrender of possession or ownership of an item of movable property has been attached, the item must be handed over to the enforcement agent.

(2) When an item of movable property is handed over to the enforcement agent, a security right arises, by virtue of attachment, in respect of the item for the benefit of the party seeking enforcement.

(3) Where a claim for the transfer of possession of an item of movable property or of the right of ownership is attached for the benefit of several parties seeking enforcement, a third party who owes an obligation to the debtor surrenders the item to the enforcement agent who was the first to serve an attachment notice on that party. If the party who owes an obligation to the debtor does not surrender the item to the agent, the party seeking enforcement has a right to make a court claim for surrender of the item.

(4) The sale of a surrendered item of property and the distribution of any proceeds from such a sale is subject to the provisions regarding the sale of attached items of property.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 123. Special rules for levying on a claim for surrender of possession or ownership of an item of immovable property

(1) When a claim for surrender of possession or ownership of an item of immovable property is attached, the property is to be surrendered to the enforcement agent or to a third party designated by the agent, or to be left in the possession of the third party who owes an obligation to the debtor.

(2) When a claim for surrender of possession of an item of immovable property or of the right of ownership is attached for the benefit of several parties seeking enforcement, the third party who owes an obligation to the debtor surrenders the property to the enforcement agent or surrenders it into the possession of a third party who has been designated by the agent and who is the first to serve the attachment notice on the obligated third party.

(3) A provisional note for the benefit of the party seeking enforcement is recorded in the Land Register on the basis of a unilateral written application of the enforcement agent.

(4) A levy on an item of immovable property is made according to the rules governing such levies. If a person who owes an obligation to the debtor does not hand over such property, the party seeking enforcement has a right to make a court claim to obtain the handing over of the property.

(5) The provisions of subsections 1–4 of this section also apply when a levy is made on a claim for handing over of possession or ownership of a ship registered in the Register of Ships or of an aircraft registered in the Register of Civil Aircraft.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 124. Levy on securities

(1) In order to attach any securities listed in § 2 of the Securities Register Maintenance Act, the enforcement agent directs the Registrar to record a note restraining any disposal of the rights and obligations involved. A security is attached when it has been rendered unusable in the Register. Having received a direction to attach, the Registrar is required to arrange, without delay, the rendering of the security unusable.
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(2) Having transmitted the direction, the enforcement agent must, without delay, serve a notice concerning the attachment of securities on the debtor.

(3) Where a security exists in the form of a paper document, the enforcement agent takes the security into their possession from the debtor.

(4) The enforcement agent sells any securities according to the provisions regarding levies on movable property. The agent may register a registered security in the name of the purchaser, and file any applications required to achieve this, in the stead of the debtor.

(5) The enforcement agent presents a bill of exchange, a cheque or a bond for payment provided this is possible under the security's terms.

(6) In order to sell any securities registered with the Registrar, the enforcement agent presents a direction to the Registrar to transfer the securities that are subject to attachment to the agent's professional securities account. Such a direction is communicated to the Registrar by post or, where the necessary technical conditions and a respective agreement are in place, electronically via a system that the enforcement agent is under an obligation to use. The Registrar executes the direction by debiting the securities account of the debtor and crediting the securities account of the agent accordingly.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(7) Any securities that are transferred to the enforcement agent's official securities account are sold by the agent according to the provisions governing levies on movable property; the securities are transferred to a purchaser by means of a transfer of securities provided for by the Securities Register Maintenance Act. The agent may also sell, on a stock exchange or in a regulated securities market, any securities that are listed on such an exchange or admitted for trading in such a market, taking account of the requirements concerning the conduct of transactions and concerning settlement that are provided by the regulations of the exchange or market.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(8) The law may provide for securities that cannot be levied upon.

§ 125. Levy on a share in a private limited company

(1) If a share of a private limited company is not registered in a register maintained by the Central Securities Depository, the share is deemed to be attached according to the rules provided for the attachment of movables. The enforcement agent informs the management board of the private limited company of the attachment.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(2) The enforcement agent sells a share of a private limited company according to the provisions governing levies on movable property.

(3) The enforcement agent who sells a share sends a notice concerning transfer of the share, in the form established by the Minister in charge of the policy sector, to the Registrar of the Commercial Register within two days following the auction.

[RT I 2009, 51, 349 – entry into force 15.11.2009]

§ 125¹. Levy on a membership in a building association

(1) A membership in a building association is deemed to be attached according to the rules prescribed for the attachment of movable property. The enforcement agent informs the management board of the building association and the Registrar of the Register of Non-Profit Associations and Foundations of the attachment.

(2) The enforcement agent sells a membership in a building association according to the provisions governing levies on movable property.

(3) The enforcement agent who sells a share sends a notice concerning transfer of the membership, in the form established by the Minister in charge of the policy sector, to the building association and the Registrar of the Register of Non-Profit Associations and Foundations within two days following the auction.

[RT I 2009, 51, 349 – entry into force 15.11.2009]

§ 126. Levy on a partner's share in partnership property

In order to levy on a partner's share in partnership property, the party seeking enforcement must cancel the partnership contract according to the rules provided by the Law of Obligations Act. The contract having been cancelled, a levy can be made on the share belonging to the partner when partnership property is distributed.

§ 127. Levy on an inalienable right

(1) Unless otherwise provided by law, a levy may be made on an inalienable right by a method determined by the enforcement agent, provided the exercise of the right can be assigned to another person.

(2) When conducting compulsory enforcement of a right of use, the enforcement agent may order the right's administration. In such a situation, attachment is carried out by the property in use being handed over to the administrator, unless this has already been effected by a judicial disposition.

§ 128. Levy on an author's pecuniary rights

Enforcement proceedings are permitted in respect of an author's pecuniary rights provided the author has exercised such rights and a work has been published with the author's consent. Assignment of pecuniary copyright to a third party is also deemed an exercise of such a right, regardless of whether a third party has commenced to exercise the right.

§ 129. Levy on other pecuniary rights

(1) Where, at the time a right is attached, there is no third party obligated to perform to the debtor or such a group of third parties cannot be determined exactly, the attachment is valid from the time of service on the debtor of the attachment notice restraining the debtor from disposing of the right, unless otherwise provided by law.

(2) Where a right appearing in a public register is subjected to a restraint, a note restraining disposal of the right is recorded in the register.

Subchapter 2 Special Rules for the Attachment of Earnings

§ 130. Attachment of earnings

(1) The security right acquired when attaching a claim for the payment of remuneration for work or another similar claim for payment of earnings also extends to amounts which become due after attachment.

(1¹) Earnings are deemed to consist, in particular, of the debtor's remuneration or other similar payments, of any daily allowances, non-competition fees or fees for assignment of intellectual property rights or for granting the use of such rights, of any pension or dividends, or of any goods, services, remuneration in kind or benefits that have a monetary value that the person received in connection with an employment or a service relationship, a membership in any management or oversight body of a legal person or with a long-term contractual relationship. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1²) The value of any goods, services, remuneration in kind or any benefits which have a monetary value and which the person received in connection with an employment or a service relationship, a membership in any management or oversight body of a legal person or with a long-term contractual relationship is the market price of such benefits. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1³) Where the monetary remuneration that the debtor receives during their employment or service relationship, during their membership in a management or oversight body of a legal person or on the basis of a long-term contractual relationship does not exceed the non-attachable share of earnings provided for by § 132 of this Code – if the debtor receives a benefit mentioned in subsection 1² of this section, the enforcement agent may attach any remuneration paid to the debtor in cash, deeming the value of such other benefit to constitute a part of the remuneration paid to the debtor. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1⁴) Before attaching, under subsection 1³ of this section, a cash remuneration to an extent that leaves the debtor with an amount of such remuneration that falls below the amount of non-attachable earnings provided for by § 132 of this Code, the enforcement agent hears the debtor and the debtor's employer or other contract partner and, if necessary, the party seeking enforcement. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1⁵) The enforcement agent may require the debtor's employer and any other persons who owe an obligation to the debtor to provide information which is required for the purposes of enforcement proceedings concerning the debtor's other earnings provided for by subsection 1¹ of this section. The third party is under a duty to provide such information unless they are authorised by law to refuse its provision. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(2) The attachment of remuneration or of an official salary also extends to earnings that the debtor is entitled to in connection with being reassigned to another job or position or in connection with an increase in their remuneration or salary.

(3) Where the debtor commences employment with the same employer within six months following termination of their employment or service relationship, an earlier attachment notice is deemed to be valid in respect of the employer.

(4) When attaching any earnings, the attachment is not deemed to extend to any taxes or contributions to a mandatory funded pension scheme, to a health insurance scheme or to an unemployment insurance scheme.

§ 131. Earnings that cannot be levied upon

(1) The following earnings may not be levied upon:

- 1) a state family allowance;
- 2) social benefits for disabled persons;
- 3) social benefit within the meaning of the Social Welfare Act;
- 4) [Repealed – RT I, 03.04.2018, 3 – entry into force 01.07.2018]
- 5) unemployment allowances, grants, transport and accommodation benefits and business start-up subsidy paid through the Estonian Unemployment Insurance Fund;
- 6) compensation paid for causing of a bodily injury or health disorder, except compensation for loss of earnings and compensation for non-pecuniary harm;
- 6¹) a work ability allowance;
[RT I, 13.12.2014, 1 – entry into force 01.07.2016 (entry into effect changed – RT I, 17.12.2015, 1)]
- 6²) compensation for victims of criminal offences;
[RT I, 06.01.2023, 1 – entry into force 01.04.2023]
- 7) statutory maintenance;
- 8) [Repealed – RT I, 26.10.2018, 1 – entry into force 01.09.2019]
- 9) health insurance benefit within the meaning of the Health Insurance Act, except benefits for temporary incapacity for work;
- 10) State pension to the extent provided by law;
- 11) allowance on discharge from prison;
[RT I, 14.03.2011, 1 – entry into force 24.03.2011]
- 12) a repressed person's allowance paid under the Persons Repressed by Occupying Powers Act.
[RT I, 03.04.2018, 3 – entry into force 15.04.2018]

(2) Where levies on the debtor's other property have not led to or presumably will not lead to complete satisfaction of the claim of the party seeking enforcement and if attachment is fair taking account of the type of the claim and the amount of the earnings, a levy may be made on the earnings mentioned in clauses 6–7 of subsection 1 of this section on an application of the party seeking enforcement. Where this is possible, the enforcement agent hears the debtor before making the corresponding decision.
[RT I, 26.10.2018, 1 – entry into force 01.09.2019]

§ 132. Portion of earnings that cannot be levied upon

(1) Earnings are not attached if they do not exceed the minimum monthly salary or a corresponding proportion of earnings for a week or day.

(1¹) Where making a levy on the debtor's other property has not led, or presumably will not lead, to complete satisfaction of the child's claim for periodic maintenance payments, up to one half of the earnings mentioned in subsection 1 of this section may be attached. Where the amount attached out of the debtor's earnings to satisfy the child's claim for such payments is less than one half of the amount mentioned in subsection 1 of this section, up to one third of the debtor's earnings may be attached.
[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(1²) Where making a levy on the debtor's other property has not led, or presumably will not lead, to complete satisfaction of the claim, attachment may be imposed, for each month – regardless of the number of enforcement cases that are being handled in respect of the debtor – on up to 20 per cent of earnings which do not exceed those mentioned in subsection 1 of this section and from which the estimated subsistence minimum published by Statistics Estonia has been deducted. Earnings are not attached if they fall below the estimated subsistence minimum. The provisions of this section do not apply to enforcement of a child's claim for maintenance payments.
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(1³) If the debtor has dependants, the 20 per cent mentioned in subsection 1² of this section are calculated based on the debtor's earnings less the amount not subject to attachment pursuant to subsection 2 of this section per each dependant and the estimated subsistence minimum published by Statistics Estonia has been deducted.
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(1⁴) By 1 February each year, in the publication *Ametlikud Teadaanded*, Statistics Estonia publishes the estimated amount of the subsistence minimum in euros based on the data for the previous year.
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) Where, by law, the debtor maintains another person or pays maintenance to such a person, the non-attachable amount increases by one third of the minimum monthly salary per each dependant, except where compulsory enforcement is conducted in respect of a child's claim for maintenance.
[RT I 2007, 25, 130 – entry into force 01.01.2008]

(3) Where earnings exceed the non-attachable amount, up to two thirds of an amount equivalent to five times the minimum salary, and the total of earnings exceeding that amount, may be attached, provided the amount to be attached does not exceed two thirds of the total earnings. This provision does not apply when compulsory enforcement is conducted in respect of a child's claim for maintenance.
[RT I 2007, 25, 130 – entry into force 01.01.2008]

§ 133. Releasing the attachment imposed on earnings

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) In the attachment notice, the enforcement agent states that an amount equal to the minimum monthly salary is exempt from attachment on a monthly basis and states, based on information known to them concerning the debtor's dependants, the amount to be exempted. On an application of the debtor, the agent releases the attachment, within three working days, to an extent that leaves the debtor with the exempted amount of earnings, having regard to the restrictions provided by §§ 131 and 132 of this Code.
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1¹) Where a sum of earnings covering more than one month is transferred to the debtor's account, the enforcement agent is required, on an application of the debtor, within three working days to release the attachment imposed on the account to an extent that leaves the debtor with the exempted amount of earnings for each prepaid month, having regard to the restrictions provided by §§ 131 and 132 of this Code. Where it is not possible to determine the period during which the earnings are meant to be used, the agent arranges for the debtor to be left with the exempt amount for one month.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Until disposing of the application, the enforcement agent may suspend any transfers of funds from the attached account to parties seeking enforcement and to release the attachment imposed on the account to the extent required to provide for subsistence maintenance of the debtor or a member of the debtor's family.

§ 134. Changes in circumstances on which calculation of earnings is based

(1) When circumstances based on which the portion of earnings that cannot be levied upon is calculated, the enforcement agent, on an application of the debtor or of the party seeking enforcement, amends the attachment notice accordingly.

(2) Until they are served with the amended notice, a third party who owes an obligation to the debtor may perform the obligation according to the earlier notice.

§ 135. Levy on concealed earnings

(1) Where a person for whom the debtor works under an employment contract, or to whom they provide a service, is obligated to pay money to a third party or to perform, to such a party, an operation which, due to the nature of their relationship, may be construed as a full or partial payment for the work performed under the employment contract, or for the service provided, by the debtor, the claim of the third party may be attached, similarly to any claim of the debtor, on the basis of the enforceable title issued concerning the debtor. Attachment of the debtor's claim for payment also extends to any third-party claim against a third party who owes an obligation to the debtor. The attachment notice must be served on the third party and on the debtor.
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(3) In a situation mentioned in subsection 1 of this section, the enforcement agent attaches a claim based on the information provided by the party seeking enforcement. A third party may file a court claim for release of attachment imposed on the property or for a declaration of impermissibility, for other reasons, of compulsory enforcement in the case. The court claim is made against the party seeking enforcement.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 136. Taking earnings into account when distributing funds between parties seeking enforcement

(1) In a distribution plan, earnings are taken into account inclusive of any amounts which will become due in the future.

(2) Within five working days following a portion of the earnings falling due, the enforcement agent pays out, from the deposited sum, the amount allocated to the party seeking enforcement.
[RT I 2006, 7, 42 – entry into force 04.02.2006]

Chapter 8 LEVIES ON IMMOVABLE PROPERTY

Subchapter 1 General Provisions

§ 137. Application of provisions governing levies on movable property

Unless otherwise provided for by this Chapter, the provisions governing levies on movable property apply to levies on immovable property.

§ 138. Application of provisions to rights deemed equivalent to an item of immovable property and to ships and aircraft

(1) Unless otherwise provided for by law, the provisions of this Chapter also apply to enforcement proceedings regarding rights deemed equivalent to an item of immovable property and to aircraft entered in the Estonian Register of Civil Aircraft. The provisions of this Chapter apply to ships entered in the Register of Ships subject to special rules prescribed by the Law of Maritime Property Act.

(2) A levy may only be made on a share in an item of immovable property or on a right deemed equivalent to such an item if the share is a legal share of a co-owner or if the claim of the party seeking enforcement is based on a right encumbering the legal share.

§ 139. Extent of a levy on immovable property

Unless otherwise provided by law, a levy on an item of immovable property also extends to any objects that would be captured by a mortgage.

§ 140. Levy on immovable property

(1) In order to enforce a claim of the party seeking enforcement, a levy may be made on an item of immovable property, provided the debtor is recorded in the Land Register as the item's owner, or is a universal successor of an owner recorded in the Register.

(2) The party seeking enforcement must present to the enforcement agent a reference to the Land Register. [RT I, 21.06.2014, 8 – entry into force 01.01.2015]

(3) Where an item of immovable property has passed to a universal successor, documents proving universal succession must be presented.

§ 141. Levy on several items of immovable property

In order to levy on several items of immovable property, single proceedings may be conducted where such an approach is taken due the fact of a single claim having been filed against the debtor or of a right encumbering several immovables or due to a claim for which the owners of the items are liable as joint and several debtors.

Subchapter 2 Attachment

§ 142. Attachment of immovable property

(1) In order to attach an item of immovable property, the enforcement agent makes a list of the item and its accessories as well as of any other objects that would be captured by a mortgage, restrains the making of disposals concerning the item, its accessories and other objects that would be captured by a mortgage, and causes a note restraining disposal of the item to be entered in the Land Register.

(2) Where attachment also captures a claim that the owner of the item of immovable property has against a third party, the enforcement agent, on an application of the party seeking enforcement, restrains the third party who owes an obligation to the debtor from satisfying such a claim.

(3) When an item of immovable property is attached, no right of security in respect of the item arises by virtue of the attachment.

§ 143. Notice of attachment of an item of immovable property

The notice of attachment of an item of immovable property states the following:

- 1) the enforceable title on which the enforceable claim is based;
- 2) information concerning the property in the Land Register;
- 3) accessories and essential parts of the property;
- 4) the price of the property;
- 5) the dimensions of any buildings, the number and purposes of any rooms.

§ 144. Appraisal of immovable property

(1) When appraising an item of immovable property, the enforcement agent takes into account any rights recorded in the Land Register prior to the restraining note according to the substance of the corresponding entries in the Register.

(2) When performing an appraisal, any rights appearing in the Land Register as the subject matter of a provisional note or as an objection are taken into account as rights recorded in the Land Register.

§ 145. Entry of a restraining note in the Land Register

(1) Having created an attachment notice concerning an item of immovable property, the enforcement agent, without delay, sends to the Land Registry Department a copy of the enforceable title and a unilateral application to record a note restraining disposal of the item in the Land Register.

(2) Having recorded the restraining note in the Register, the Land Registry Department sends an extract of the register part and copies of the documents that serve as a basis for the entries and that contain the particulars of the residence or seat of any persons reflected in those entries, and of their representatives, to the enforcement agent.

(3) The Land Registry Department notifies the enforcement agent of any application that has been filed with the Department before prior to reception of the application for a restraining note and transmits copies of any documents serving as a basis for the entry applied for.

(4) Where a delay caused by service of the enforcement notice may materially jeopardise attainment of the objectives of compulsory enforcement, the enforcement agent may also attach the debtor's immovable property, or have a restraining note recorded in the Register, prior to sending the enforcement notice.

§ 146. Extent of attachment

(1) Accessories of an item of immovable property cannot be attached as movable property. Other objects which would be captured by a mortgage may be attached as movable property if they have not been attached together with the item.

(2) Attachment of an item of immovable property extends to any agricultural and forestry produce generated by the item, as well as to any claims arising from having insured such produce, provided the produce is still permanently attached to the land or constitutes an accessory of the item.

(3) Attachment of an item of immovable property does not extend to lease and commercial lease claims or claims arising in relation to recurring payments related to ownership of immovable property, particularly claims for payment of the fee for the right of superficies or claims for payments secured by a real encumbrance.

(4) Attachment of an item of immovable property does not restrict the right of a commercial lessee to take the fruit of the item.

(5) When an order of compulsory administration is made in respect of an item of immovable property, attachment also extends to any property provided for by subsections 2–4 of this section.

§ 147. Provision for regular management

(1) On attachment, an item of immovable property remains in the possession of the debtor, to be administered and used by the debtor within the scope of regular management – except where an order of compulsory administration is made in respect of the item.

(2) If it may be presumed that the debtor poses a risk to the regular management of the item of immovable property or will do so in the future, the court, on an application of the party seeking enforcement, orders a measure that is needed to eliminate such a risk. Above all, the measure may take the form of appointing a supervisor or a compulsory administrator to the item of immovable property.

(3) A supervisor monitors the performance of the debtor's obligations and informs the enforcement agent of any violation of such obligations. When a supervisor is appointed, the court sets a reasonable remuneration for them which is charged to the costs of enforcement.

(4) The rights and obligations of a compulsory administrator are governed by the provisions of this Code concerning compulsory administration.

§ 148. Validity of attachment

(1) Attachment is deemed to be valid from the time of service of the attachment notice on the debtor or from the time the restraining note is recorded in the Land Register, should this take place before the notice is served on the debtor.

(2) Where attachment extends to a claim of the owner of an item of immovable property against a third party and the enforcement agent prohibits the third party from making payments to the debtor, the attachment is deemed to be effective regarding the third party from the time that the person becomes aware of the attachment or after they are served with a document restraining them from satisfying the claim. The enforcement agent may arrange provisional attachment of the claim.

§ 149. Joining compulsory enforcement proceedings

(1) Where an application for a levy on an item of immovable property is made after the attachment of the item for the benefit of another party seeking enforcement, the enforcement agent makes a decision to permit the person who made the application to participate in the proceedings. The agent does not create a second attachment notice or enter a second restraining note in the Land Register.

(2) Unless otherwise provided by law, the party seeking enforcement who joined the proceedings has the same rights as the party seeking enforcement based on whose application the item of immovable property was attached.

(3) Where, after a person joins compulsory enforcement proceedings, the proceedings are terminated without having arranged a sale of the immovable property, the enforcement agent who conducted proceedings in the enforcement case notifies the termination to the person who made the application to join. Where such an application was made by several parties seeking enforcement, the agent notifies the termination of enforcement proceedings to the applicant who was the first, in time, to join.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(4) The enforcement agent who conducted proceedings in the enforcement case transmits any applications to join compulsory enforcement proceedings as well as any decisions mentioned in subsection 1 of this section to the agent who attached the immovable property. A party seeking enforcement is deemed to have joined in compulsory enforcement in the proceedings in which the property was attached, provided they have not abandoned their joining. The order in which the applications to join were made does not change.
[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

§ 149¹. Special rules for attaching apartment ownership rights

(1) Where the enforcement agent attaches apartment ownership rights and the party seeking enforcement is not the apartment association, the agent, once a restraining note has been recorded in the Land Register, sends a notice concerning the attachment to the apartment association without delay.
[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(1¹) Where the enforcement agent attaches apartment ownership rights and the party seeking enforcement is the apartment association, the agent, once the restraining note has been recorded in the Land Register, sends a notice concerning the attachment to all holders of limited real rights in the item of immovable property without delay. Where the apartment association joins the enforcement proceedings, the agent, once the association has been added to the proceedings, sends a corresponding note to all real right holders without delay.
[RT I, 23.12.2022, 1 – entry into force 01.02.2023]

(2) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(3) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4) Within ten days after the receipt of the notice specified in subsection 1 of this section, the apartment association must submit to the enforcement agent the management plan of the association as well as documentation with the following information:

1) the amount of the claim arising from the apartment ownership rights which has fallen due up to three months before the restraining note was recorded in the Land Register, and the information which allows the justification for the claim to be verified;

2) the basis for further accounting of the management costs.
[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

Subchapter 3

Sale under Enforcement Procedure

§ 150. Substantive scope of compulsory auction

(1) The substantive scope of a compulsory auction extends the item of immovable property as well as any objects which have been attached together with such property and whose attachment remains valid during the auction.

(2) The substantive scope of the auction also extends to any accessories of the property that belong to a third party but are in the debtor's possession are also the objects of a compulsory auction, except where the third party has, by the time the auction is held, achieved release of the attachment imposed on the items in question, and has informed the enforcement agent of such release.

§ 151. Separate and joint tender of items of immovable property

(1) Items of immovable property to be sold in the course of the same enforcement proceedings are auctioned separately.

(2) Where items of immovable property are encumbered with the same right, each party to proceedings may require such items to be auctioned together. Items may be auctioned together if, in the opinion of the enforcement agent, a joint offering will result in greater proceeds or save enforcement costs.

§ 152. Exclusion of movable property from an auction of immovable property

At the proposal of the party seeking enforcement, the enforcement agent may determine that an item of movable property is to be excluded from the auction of an item of immovable property, and is to be sold in accordance with the provisions governing levies on movable property, provided that selling the item by such a method may be presumed to result in a higher selling price or if selling the item separately is reasonable due to other considerations.

§ 153. Notification of an auction

(1) The announcement of an auction of an item of immovable property states, among other things:

- 1) the number of the register part of the property;
- 2) the location and size of the property;
- 3) the name of the owner of the property entered in the Land Register;
- 4) the name of the universal successor of the owner who is recorded in the Land Register, such a successor being the debtor;
- 5) any ascertained rights of third parties that encumber the property, together with their ranking and other restrictions on ownership of the property;
- 6) a call to the public to inform the enforcement agent, before the auction, of any rights not registered in the Land Register by the time of registration, in that register, of the restraining note and, at the request of the party seeking enforcement, to substantiate such rights.

(2) Unless the court determines otherwise, the period of time between, on the one hand, the publication of an auction's announcement and an auction's notice and, on the other hand, the auction, must be at least 20 days. An auction's announcement is published in the publication *Ametlikud Teadaanded* and, on the Internet, in at least one of the portals commonly used to advertise selling offers concerning immovable property. The enforcement agent may also publish an announcement in a newspaper that is circulated in the locality in which the auction is to be held. At the request of the party seeking enforcement or of the debtor and at their expense, the enforcement agent publishes the announcement also in another publication. In an announcement published on the Internet, the agent also includes photographs of the property.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

§ 153¹. Special rules for an auction of apartment ownership rights

(1) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(3) Before the auction, the apartment association presents an additional certificate to the enforcement agent concerning any amounts that have accrued under any claims that arise from the apartment ownership rights and that have become due after the enforcement application was made or after the certificate mentioned in subsection 4 of § 149¹ of this Code was presented but before the auction is held.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

§ 154. Written bid

(1) A person who wishes to buy an item of immovable property at an oral auction may, until the beginning of the auction, present a written bid to the enforcement agent which states the particulars mentioned in subsection 1 of § 86 of this Code as well as the number of the register part and the location of the property.

(2) A written bid must be presented in a sealed envelope bearing the inscription *enampakkumine*[auction] and a reference to the item being auctioned. The envelope is opened at the oral auction.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 155. Passing of risk of accidental loss of immovable

The risk of loss concerning an item of immovable property and any objects sold together with such an item passes to the purchaser at an auction when the purchaser's bid is declared to be the winner. As of the moment of such declaration, the purchaser bears all costs and encumbrances and takes all benefits related to the purchase.

§ 156. Acquisition of immovable

Ownership of an item of immovable property sold at an auction is created on the basis of a report on the auction by making an entry in the Land Register.

§ 156¹. Acquiring an item of immovable property with the help of a loan

(1) If an item of immovable property is to be acquired with the help of a loan, the purchaser notifies this to the enforcement agent according to the rules provided by § 93¹ of this Code.

(2) If the purchaser and the credit institution agree on encumbering the item of immovable property sold at the auction with a mortgage as security for a loan, and agree to cause an agreement on consent to be subjected to immediate compulsory enforcement to be recorded in the Land Register, the purchaser makes a corresponding notification at the same time with the notification concerning their intention to purchase the item with the help of a loan. The credit institution notifies the enforcement agent of the time when the transaction will be authenticated by a notary, and of the name and contact details of the notary.

(3) Where a credit institution has issued a guarantee to the enforcement agent in a form reproducible in writing or the enforcement agent receives a copy of the deposit receipt concerning transfer of the money to a notary's bank account, the agent, without delay, unless otherwise agreed, sends the notary a digitally signed report of the auction, an application for removal, from the Register, of the restraining note and of any rights to be extinguished as a result of enforcement proceedings, as well as the agent's consent for recording the mortgage in the Land Register.

(4) The notary files, with the Land Registry Department, the real right contract for creation of the mortgage, the agreement concerning the claims secured by the mortgage and concerning consent to be subjected to immediate compulsory enforcement, as well as the registration application and the documents mentioned in subsection 3 of this section.

(5) The notary transfers the sum deposited in the notary's bank account to the official bank account of the enforcement agent within three working days following registration of the documents mentioned in subsection 4 of this section in the journal of the Land Registry.

(6) If the agreements mentioned in subsection 4 of this section are not concluded within 30 days following creation of the auction report, the notary returns, to the enforcement agent, the documents mentioned in subsection 3 of this section and, to the credit institution, the money transferred to the notary's bank account according to subsection 3 of this section.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 157. Sale by another method

Immovable property may be sold under the supervision of the enforcement agent according to the rules provided by § 102 of this Code.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 158. Rights preserved

(1) When an item of immovable property is sold under enforcement procedure, the rights reflected in the Land Register which have the same ranking as, or a higher ranking than, the claim of the party seeking enforcement or the right securing that claim are preserved.

(2) Where an item of immovable property is sold in order to enforce several claims which have different rankings, the preservation of rights is determined according to the higher-ranking claim.

(3) Rights that have a lower ranking than the claim are extinguished when the winning bid is declared. The right that is held by the party seeking enforcement, that is recorded in the Land Register and that gave rise to the claim for whose satisfaction the levy was made is also deemed to be extinguished.

(4) An auction does not extinguish the rights arising from a servitude, provided the servitude was created under a statutory right to create a servitude.

§ 159. Rights preserved by agreement

(1) A right that is recorded in the Land Register and that would be extinguished upon the sale of the item of immovable property, and would be subject to removal from the Land Register, is preserved if the entitled party and the purchaser provide for such an outcome by an agreement authenticated by a notary and if they submit the agreement to the enforcement agent before the filing of an application for removal of rights from the Land Register.

(2) In a situation mentioned in subsection 1 of this section, the agreement is deemed to constitute satisfaction of the claim of the entitled party out of the item of immovable property.

(3) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 160. Entries in the Land Register

(1) Unless otherwise provided by law, after the entire purchase price has been paid, the enforcement agent files with the Land Registry Department, without delay, a copy of the auction's report and the applications for the purchaser to be recorded in the Land Register as the owner and for the restraining note and any rights subject to extinguishment to be removed from the Register.
[RT I 2010, 38, 231 – entry into force 01.07.2010]

(1¹) In a situation mentioned in subsections 1 and 2 of this section, the applications for registration of the owner and of a mortgage are deemed to be applications made by the purchaser and the mortgagee. The purchaser is required to pay a statutory fee in the amount provided for by the Statutory Fees Act.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1²) In a situation mentioned in subsections 1 and 2 of this section, the application for registration of the owner is deemed to be an application made by the purchaser. The purchaser is required to pay a statutory fee in the amount provided for by the Statutory Fees Act.
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) The making of an entry by which a right is removed from the Land Register does not require the right holder's consent within the meaning of § 34¹ of the Land Register Act.

(3) If, before they are recorded in the Land Register as the owner, a purchaser applies for a right to be registered in respect of the immovable that was auctioned, or consents to the making of a corresponding entry, the entry may not be made on that basis before the purchaser has been recorded in the Land Register as the owner.

§ 161. Cancellation of lease contracts and commercial lease contracts

A purchaser may cancel a lease contract or a commercial lease contract under the terms and conditions and within the time limit prescribed by § 323 of the Law of Obligations Act. The purchaser may not cancel the lease contract or commercial lease contract if a note has been entered in the Land Register according to § 324 of the Law of Obligations Act and the note cannot be removed due to its ranking.

Subchapter 4 Compulsory Administration of Immovable Property

§ 162. Ordering compulsory administration of an item of immovable property

(1) After attachment, on an application of the enforcement agent, of the party seeking enforcement or of the debtor, the court orders compulsory administration of the item of immovable property and appoints an administrator.

(2) Based on a claim arising from a right appearing in the Land Register, compulsory administration of an item of immovable property may also be ordered when the debtor does not appear in the Land Register as the item's owner, and is not an heir or beneficiary of the owner, but has possession of the item on the basis of a transaction by which it was acquired.

§ 163. Appointing the administrator

(1) Neither the party seeking enforcement nor the enforcement agent, nor any relative, by blood or marriage, of the agent may be appointed as the administrator. A relative, by blood or marriage, of the party seeking enforcement may be the administrator strictly with the written consent of the debtor and of the party seeking enforcement.

(2) The court may replace the administrator if they do not perform their obligations.

(3) If the court does not appoint an administrator, the item of immovable property subject to compulsory administration remains in the possession of the debtor.

§ 164. Entry concerning compulsory administration and giving notification of compulsory administration

(1) On the basis of a court order, an entry is made in the Land Register concerning compulsory administration and the compulsory administrator.

(2) When the entry concerning compulsory administration has been made in the Land Register, the court serves a notice concerning the ordering of compulsory administration of the item of immovable property on the parties to enforcement proceedings and on the enforcement agent.

§ 165. Possession by compulsory administrator

(1) By the order which appoints them as the compulsory administrator of the item of immovable property, the administrator is authorised to take possession of the property.

(2) If the debtor physically resists the compulsory administrator's taking possession of the property, the administrator may have recourse to police assistance in order to overcome the resistance and take possession of the property.

(3) Where the item of immovable property is in the possession of a third party, the compulsory administrator may require possession of the property to be handed over on the basis of the enforceable title against the debtor and of the order appointing them as compulsory administrator of the property. If the property is in the possession of a commercial lessee, lessee or a usufructuary, the administrator remains the property's indirect possessor and is authorised, by the attachment notice, to collect due claims in the stead of the debtor.

§ 166. Effect of attachment where compulsory administration has been ordered

(1) Where compulsory administration has been ordered, the item of immovable property is deemed to be attached from the time when the administrator attains possession of the item.

(2) The administrator may make an application to the enforcement agent to restrain a third party who owes an obligation to the debtor from making any payments to the debtor.

§ 167. Functions of an administrator

(1) An administrator takes the item of immovable property on the basis of the order imposing compulsory administration of the property and is required to hand the property over with the same inventory and in the same economic condition.

(2) An administrator is entitled, and is under a duty, to carry out all transactions and operations that are necessary to preserve the condition and ensure the regular management of the property. The administrator may collect any claims related to the property and sell any fruits of the property that are not required for its administration.

(3) The administrator performs any commercial lease or lease contracts concluded before attachment of the item of immovable property. The administrator may conclude new commercial lease or lease contracts for a period of time that runs until the end of the period of compulsory administration.

(4) Where an item of immovable property remains under the debtor's administration, the debtor must manage the immovable under the same rules as apply to the administrator. The debtor may dispose of the property only with the consent of the enforcement agent.

§ 168. Supervision by enforcement agent

(1) Having obtained the relevant views of the party seeking enforcement and of the debtor, the enforcement agent issues, to the administrator, the guidelines required for compulsory administration, and oversees the administrator's administration of the property.

(2) If necessary, the enforcement agent may require the administrator to provide a security.

§ 169. Liability and reporting obligation of administrator

(1) The administrator is liable to the parties to enforcement proceedings for performance of the administrator's obligations. The relationship between the administrator and the parties to proceedings is governed by the provisions concerning agreements for personal services, excluding the provisions regulating the payment of remuneration and the cancellation of such agreements.

(2) The administrator is required to present reports on the administration of the item of immovable property to the enforcement agent at such times as are designated by the agent.

(3) The debtor and the party seeking enforcement have a right to acquaint themselves with the administrator's reports.

§ 170. Payment of a user's fee

(1) Any lease or rent payment or usufruct fee that falls to be paid for the use of the item of immovable property must be paid to the administrator.

(2) Where the relevant amounts are not required for managing the item of immovable property, the court may order any lease or rent payments be made to the enforcement agent's official bank account.

§ 171. Remuneration of administrator

(1) When appointing an administrator, the court approves the administrator's remuneration, which the administrator is entitled to take from the fruits of the item of immovable property. Where the debtor is allowed to administer the property, they are not paid any remuneration.

(2) If the fruits received from the item of immovable property in the course of its administration do not cover the amount set as the administrator's remuneration, the outstanding portion is charged to enforcement costs.

§ 172. Debtor's right to use attached immovable

(1) The debtor and any member of their family who, at the time the item of immovable property is attached, resides in a dwelling located on the property, may continue to reside there during the period of compulsory administration.

(2) The debtor must compensate for any harm caused to the party seeking enforcement by use of the property.

§ 173. Termination of compulsory administration

(1) Compulsory administration is terminated by a decision of the enforcement agent after the claim of the party seeking enforcement has been satisfied.

(2) If the continuation of compulsory administration would require considerable expenditure and the party seeking enforcement does not pay the required amount in advance, the enforcement agent may apply to the court for a decision on whether to continue compulsory administration or to sell the property.

Subchapter 5 Distribution of Proceeds between Claimants

§ 174. Distribution of proceeds received from sale and compulsory administration of immovable property

(1) Any proceeds received from the sale and compulsory administration of an item of immovable property are distributed by the enforcement agent, between the parties seeking enforcement and any other parties entitled to participate in the distribution of such proceeds, based on the rankings of the corresponding rights as reflected in the Land Register and in the order of attachment or according to agreement between the parties seeking enforcement. Where attachment has taken place simultaneously, the parties seeking enforcement have the same ranking for the purposes of distribution of proceeds.

(2) Enforcement costs are deducted from the proceeds to be distributed according to the distribution plan.

(3) Claims are satisfied out of the proceeds and are taken into account in the distribution plan in the following order, and, for claims of the same rank, in proportion to the amount claimed:

1) where a compulsory auction was preceded by compulsory administration, the claim of the party seeking enforcement for compensation of expenses incurred as an advance payment for maintenance of and necessary improvements to the item of immovable property, unless such expenses can be covered out of the proceeds generated by the item;

2) claims arising from rights recorded in the Land Register, according to the ranking of the right in the Register and, to the extent provided by law, any ancillary claims;

2¹) [Repealed – RT I, 08.07.2016, 1 – entry into force 01.01.2017];

2²) a child's claims for maintenance, including any part of such a claim that has passed to the State due to the fact that maintenance support has been paid;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

3) claims of parties seeking enforcement to protect which an item of immovable property has been attached or to protect which the claim's holder has joined in compulsory enforcement, and which are not satisfied according to clauses 1–2² of this subsection;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021];

4) any remaining claims.

(4) In relation to claims mentioned in clause 3 of subsection 3 of this section, where there are several parties seeking enforcement, preference is given to the party seeking enforcement for whose benefit the property was attached earlier or who joined compulsory enforcement.

§ 175. [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 176. Rights of holders of rights to be removed from the Land Register

(1) Where a person's right that has been recorded in the Land Register is extinguished upon the sale of the item of immovable property, the holder of such a right may, according to the rules provided by subsection 2 of § 108 of this Code, demand compensation for removal of the right from the Register according to the right's former ranking.

(2) Compensation for a personal servitude or for a real encumbrance created for an unspecified period is paid to an entitled party in monthly instalments which are calculated based on the annual value of the right. The amount is paid for three months in advance.

(3) A claim for compensation provided for by subsection 2 of this section is reflected in the distribution plan by an amount which corresponds to the total sum of all future payments but does not exceed the product of the annual payment sum and the number 25. The plan determines how the sum is to be distributed when the party entitled to receive it dies or is dissolved or if the claim falls away.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 177. Distribution plan in a situation of compulsory administration

(1) In a situation where an item of immovable property has been placed under compulsory administration, the enforcement agent creates a distribution plan for distributing the proceeds of the administration between the parties seeking enforcement for the entire administration period.

(2) The administrator makes payments under the distribution plan when the corresponding claims fall due.

Chapter 8¹

LIMITATION OF THE DEBTOR'S RIGHTS, SUSPENSION OF THE DEBTOR'S LICENCES AND REVOCATION OF THE DEBTOR'S DOCUMENTS IN COMPULSORY ENFORCEMENT OF A CHILD'S CLAIM FOR PERIODIC MAINTENANCE PAYMENTS

[RT I, 16.12.2022, 1 - entry into force 01.01.2023]

§ 177¹. Warning concerning limitation of rights, suspension of licences and revocation and restraining the issue of documents

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) When, during enforcement proceedings, a child maintenance debtor has not, within two months, made regular payments towards the child's maintenance, and the enforcement agent's attempts to collect such maintenance out of the debtor's property have not been successful, the agent – with the consent of the party seeking enforcement – warns the debtor that the debtor's rights, licences or documents listed in subsection 1 of § 177² of this Code will be, respectively, subjected to limitation, suspension or revocation and the granting of such

rights, licences or documents will be restrained if, within 30 days following service of the warning, the debtor does not meet at least one of the following conditions:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

1) make a payment of at least a month's maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

2) conclude a payment schedule agreement with the party seeking enforcement concerning the payment of maintenance and pay the first instalment;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

3) provide reasons showing that the imposition of a limitation on a right, the suspension of a licence or the revocation of a document, or restraining the granting of such a right, licence or document, as described in the warning, would be unfair to them, primarily if the failure to pay the maintenance was due to a valid reason or if imposing a limitation on the right, suspending the licence or revoking the document would constitute a materially impediment to the debtor's and their dependants' subsistence.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) The warning mentioned in subsection 1 of this section remains in effect for two years following its service. If, during this period, the debtor, again, discontinues the making of regular maintenance payments without presenting a valid reason for such discontinuation, the enforcement agent, without issuing a new warning to the debtor, makes an application to the court under clause 2 or clause 3 of subsection 1 of § 177³ of this Code. The agent may, during the period of effectiveness of the warning, under clause 3 of subsection 1 of this section, reassess the validity of the reason stated by the debtor and make an application to the court under clause 4 of subsection 1 of § 177³ of this Code.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(3) During the period of effectiveness of the warning, the enforcement agent may make several applications to the court for limiting the debtor's rights, suspending the debtor's licences or revoking the debtor's documents, or for restraining the granting of such rights, licences or documents.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(4) The enforcement agent does not issue the warning mentioned in subsection 1 of this section if the debtor has previously presented what evidently constitutes a valid reason for failure to pay the maintenance.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(5) Before issuing, to the debtor, the warning mentioned in subsection 1 of this section, the enforcement agent ascertains whether the debtor holds any rights, licences or documents mentioned in subsection 1 of § 177² of this Code. If the debtor does not have any such rights, licences or documents, the agent does not issue the warning.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(5¹) The effect of the warning ends when a judicial disposition enters into effect by which the court, by virtue of clause 3 of subsection 2 of § 177⁴ of this Code, denies the enforcement agent's application for limiting the debtor's rights, suspending the debtor's licences, revoking the debtor's documents, or restraining the granting of such rights, licences or documents, or by which the court, by virtue of § 177⁵ of this Code, has terminated the limitation imposed on the debtor's rights, the suspension of the debtor's licences or a restraint imposed on the granting of such rights, licences or documents to the debtor.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(6) The form of the warning concerning limitation of the debtor's rights, suspension of the debtor's licences or revocation of the debtor's documents is enacted by a regulation of the Minister in charge of the policy sector.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 177². Limitation of the debtor's rights, suspension of the debtor's licences and revocation of the debtor's documents, as well as restraining the granting of such rights, licences or documents

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

(1) Where, during enforcement proceedings, the child maintenance debtor has not, within three months, made regular payments towards the child's maintenance, and the enforcement agent's attempts to collect such maintenance out of the debtor's property have not been successful, the court – with the consent of the party seeking enforcement and on an application of the enforcement agent which has been preceded by a warning to the debtor – may, by order, indefinitely suspend the following rights and licences:

- 1) any right to engage in hunting;
- 2) any right to drive a motor vehicle;
- 3) any weapons permit and any acquisition permit for a weapon;
- 4) any right to drive recreational craft or personal watercraft;
- 5) any fishing card.

(1¹) In situations mentioned in subsection 1 of this section, the court may, by order, revoke the following documents of the debtor, and restrain the issue of such documents for up to two years:

- 1) the Estonian citizen's passport;
- 2) the alien's passport;

- 3) any travel document issued to the debtor as a refugee;
- 4) any temporary travel document;
- 5) the seafarer's discharge book;
- 6) any certificate of record of service on an Estonian ship;
- 7) the diplomatic passport.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) When, under this section, the court limits the debtor's right, suspends the debtor's licence or orders both of the aforementioned measures, or revokes the debtor's document, it also restrains, by the same order, the granting of such a right, licence or document, or of all of the foregoing.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) The court may, at the same time, limit several of the rights, suspend several of the licences and revoke several of the documents mentioned in subsection 1 of this section, and restrain the granting of such rights, licences or documents. When limiting a right, suspending a licence or revoking a document, and when restraining the granting of such a right, licence or document, the court has regard to the provisions of subsection 2 of § 177⁴ of this Code.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 177³. Enforcement agent's application to limit the debtor's right, suspend the debtor's licence or revoke the debtor's document and to restrain the granting of such a right, licence or document

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) To limit the debtor's right, suspend the debtor's licence or revoke the debtor's document mentioned in § 177² of this Code – and to restrain the granting of such a right, licence or document – the enforcement agent files a corresponding application with the court where:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 1) the debtor has not, within 30 days following service of a corresponding warning, met at least one of the conditions mentioned in subsection 1 of § 177¹ of this Code;
- 2) the debtor has, after having been served with a warning, commenced fulfilling the maintenance claim but has discontinued such fulfilment without a valid reason for at least 30 days;
- 3) the debtor has, after having been served with a warning, concluded a payment schedule agreement with the party seeking enforcement, but has not performed it as required;
- 4) the enforcement agent is not satisfied as to the existence of the valid reason presented by the debtor under clause 3 of subsection 1 of § 177¹ of this Code or is not satisfied that the reason is a sufficiently valid one.

(2) The enforcement agent annexes the following to the application mentioned in subsection 1 of this section:

- 1) the enforcement application;
- 2) information concerning service of the enforcement notice;
- 3) an overview of payments received during enforcement proceedings;
- 4) information concerning the debtor's rights with whose limitation, licences with whose suspension and documents with whose revocation, or of the right, licences and documents to whose granting being restrained the party seeking enforcement consents;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 5) particulars concerning service of the warning issued under subsection 1 of § 177¹ of this Code;
- 6) the debtor's reasons for failing to pay the maintenance and concerning their need for the right to be subjected to limitation, the licence to be suspended, the document to be revoked, or the right, licence or document whose granting is to be restrained;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 7) information on which of the rights, licences or documents mentioned in subsection 1 of § 177² of this Code the debtor holds;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 8) other relevant information.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

§ 177⁴. Consideration of the application to limit the debtor's rights, suspend the debtor's licences and revoke the debtor's documents as well as for restraining the granting of such rights, licences or documents, and appeals against the orders given

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) The enforcement agent's application to limit the debtor's rights, suspend the debtor's licences and revoke the debtor's documents, as well as to restrain the granting of such rights, licences or documents, is considered by the court in action-by-petition proceedings.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) The court does not suspend the debtor's rights, withdraw the debtor's licences, revoke the debtor's documents, or restrain the granting of such rights, licences or documents to the debtor if, after the enforcement agent has filed the application mentioned in subsection 1 of § 177³ of this Code, the debtor:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

1) has commenced performance toward the maintenance claim and has paid at least two months' maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

2) has concluded a payment schedule agreement for the payment of maintenance with the party seeking enforcement, and has paid at least a month's maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

3) has provided reasons showing that the limitation of rights, withdrawal of licences and revocation of documents would be unfair in their respect, primarily if the failure to pay the maintenance was due to a valid reason, or if such a limitation, withdrawal or revocation, or the restraining of the granting of such rights, licences or documents would constitute a material impediment to the debtor's and his or her dependants' subsistence.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) A court order concerning limitation of the debtor's rights, suspension of the debtor's licences, revocation of the debtor's documents or imposition of a restraint on the granting of such rights, licences or documents is served by the court on the debtor and on the enforcement agent.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(4) The court serves the order – on which a note is inscribed concerning its entry into effect – on the relevant authority for the performance of operations required to limit the right, suspend the licence, revoke the document or restrain the granting of such a right, licence or document, as stated in the order.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(5) The court order contains an explanation, for the debtor, concerning the operations that they must perform due to the limitation of their right, the suspension of their licence or the revocation of their document, and concerning the time limits for such operations.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(6) The parties to proceedings may appeal the order of the district court concerning limitation of the debtor's right, suspension of the debtor's licence, revocation of the debtor's document or imposition of a restraint on the granting of such a right, licence or document within the time limits and according to the rules provided by the Code of Civil Procedure. The order of the circuit court of appeal concerning the appeal may be appealed.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 177⁵. Termination of the limitation of rights and suspension of licences, and of the restraint imposed on the granting of such rights or licences, and documents

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) On a motion of the debtor, the court, by order, terminates the limitation of the debtor's right, the suspension of the debtor's licence and the restraint imposed on the granting of such a right or licence, or document, if:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

1) the debtor has paid at least three months' maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

2) the debtor has concluded a payment schedule agreement with the party seeking enforcement, and has performed it during at least three consecutive months;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

3) it would be unfair in respect of the debtor to decide not to terminate such a limitation or suspension, or such a restraint;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

4) the obligation to pay maintenance has ended.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(2) The order that discharges the limitation of the debtor's right, the suspension of the debtor's licence and the restraint on the granting of such a right or licence is served by the court on the debtor and on the enforcement agent.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) The court serves the order – on which a note has been inscribed concerning its entry into effect – on the relevant authority for the performance of operations related to termination of the limitation of the right, of the suspension of the licence and of the restraint on the granting of such a right or licence, or document, as stated in the order.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

§ 177⁶. Application of this Chapter

The operations provided for by this Chapter are permitted strictly in enforcement proceedings commenced for compulsory enforcement of a child's claim for periodic maintenance payments.

[RT I, 16.12.2022, 1 – entry into force 01.01.2023]

Part 3

ENFORCEMENT PROCEEDINGS CONCERNING THE HANDING OVER OF A PERSON OR SURRENDER OF AN ITEM OF PROPERTY AND FOR PERFORMANCE OF, OR REFRAINING FROM, A CERTAIN OPERATION

§ 178. Reclamation of an item of movable property

(1) Where, under an enforceable title, the debtor is required to hand over a specific item of movable property or a specific amount of fungible property or securities that have the form of documents, the enforcement agent takes these from the debtor and hands them over to the party seeking enforcement.

(2) If an item of property is not found, the debtor must inform the enforcement agent of the item's location.

(3) If the debtor does not provide information concerning the item's location, the provisions of § 183 of this Code are applied.

§ 179. Return of or allowing access to the child

(1) In a case concerning the return of or allowing access to the child, the enforcement agent performs the enforcement operation in the presence of a representative of the municipality in whose administrative territory the child – or, as an exception, the obligated party – has their residence and who possesses specialist knowledge of communication with children.

(2) Where the obligated party obstructs compulsory enforcement, the enforcement agent – on an application of the party seeking enforcement – files an application with the court for a fine to be imposed on the obligated party. For the purposes of action-by-petition proceedings, the petitioner is the party seeking enforcement and the party concerned is the debtor.

[RT I, 10.12.2021, 1 – entry into force 01.09.2022]

(2¹) Where the fine is imposed for the first time, its amount does not fall below 50 fine units or exceed 500 fine units; where a repeat fine is imposed, its amount does not exceed 800 fine units within the meaning of the Penal Code.

[RT I, 10.12.2021, 1 – entry into force 01.09.2022]

(2²) Instead of imposing a fine on the obligated party for the second time, the party may be given a short-term custodial sentence under the rules provided by § 62 of this Code. Payment of the fine or serving the short-term custodial sentence does not release the party from the obligation to perform the operation provided for by the enforceable title, from acquiescing in the operation or from refraining from it.

[RT I, 10.12.2021, 1 – entry into force 01.09.2022]

(2³) Where this is needed, the court hears the child before imposing the fine or short-term custodial sentence.

[RT I, 10.12.2021, 1 – entry into force 01.09.2022]

(3) Where this is needed, the enforcement agent may raise, with the municipality in whose administrative territory the child's – or, as an exception, the obligated party's – residence is located, the matter of the child's temporary placement in a children's social welfare institution.

(4) The enforcement agent may use force in respect of the child or the person obligated to return the child or allow access to the child strictly on the basis of a judicial disposition. The court allows the use of force to enforce the disposition only where the application of other measures has been or is unsuccessful or where prompt enforcement of the disposition is required and the use of force is justified by the need to ensure the child's well-being, which cannot be achieved in any other way.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

§ 180. Surrendering an item of immovable property

(1) Where the debtor must surrender, hand over or vacate an item of immovable property, including the part of such an item in which they hold apartment ownership rights or a part of such a part, or residential or other enclosed premises, the enforcement agent sets a time limit of up to three months for the debtor to comply with the enforceable title on a voluntary basis.

(2) The enforcement agent serves the debtor with an enforcement notice concerning surrender of the item of immovable property not less than 14 days before the envisaged compulsory enforcement. Among other things, the enforcement notice states the following:

- 1) the time limit for voluntary compliance with the enforceable title;
- 2) the fact that the enforcement agent is authorised to seize the property by coercive means or to remove the debtor and any persons present with the debtor by such means;
- 3) the date on which the property is to be vacated by coercive means;
- 4) the obligations of the debtor to surrender the immovable, to arrange for a room for their property, to inform the agent of the location of such a room and, if circumstances preventing eviction are revealed, to notify these to the agent.

(3) If the debtor does not comply with the enforceable title on a voluntary basis within the time that has been set, the enforcement agent takes possession of the item of immovable property from the debtor and hands it over to the party seeking enforcement. Any objects or persons on the premises are subject to removal. If necessary, the agent engages the police to achieve surrender of the immovable.

(4) The enforcement agent separates any items of movable property which are unaffected by compulsory enforcement and hands these over to the debtor or arranges for such items to be at the debtor's disposal or, in the debtor's absence, hands the items over to the debtor's representative or to a full-age member of the debtor's family. If none of the aforementioned persons is present, the agent places the items in a facility for storing attached property, to be stored at the expense of the debtor, or arranges for their storage at another location. The agent does not arrange storage for property items whose sale is not practical due to their low value, except for items which are exempt from attachment. Items not subject to storage are brought out of the premises.

(5) If the debtor does not reclaim the items of property mentioned in subsection 4 of this section within two months following vacation of the rooms, or claims return of such items without paying the costs, the enforcement agent sells the items and deposits the proceeds. Any items not sold are destroyed.

(6) The enforcement agent creates a report on the taking of possession of the item of immovable property; the report is signed by the enforcement agent and the persons present at the taking of possession.

§ 181. Surrender of an item of property in the possession of a third party

(1) If the item of property whose surrender is being claimed is in the direct possession of a third party and such a party refuses to surrender the item, the right to claim surrender of the item is attached on an application of the party seeking enforcement.

(2) Where it is patently obvious that the item of property whose surrender is being claimed has been passed into the direct possession of a third party in order to avoid surrendering it, the enforcement agent may remove the item from the third party's possession.

§ 182. Enforcement proceedings for performance of an operation which can be performed by third party

(1) If the debtor fails to comply with an obligation to perform an operation which can be performed by a third party, the enforcement agent may authorise the party seeking enforcement to have the operation performed at the expense of the debtor.

(2) On the basis of the enforceable title requiring performance of the operation and on an application of the party seeking enforcement, a levy may be made on the debtor's property to cover the costs incurred. Such a levy may also be made if the third party requests an advance payment in order to perform the operation.

(3) The provisions of subsections 1 and 2 of this section do not apply to enforcement proceedings whose object is achieving the surrender of property.

§ 183. Enforcement proceedings for performance of an operation which can be performed only by the debtor

Where an operation can be performed only by the debtor but the debtor does not perform the operation by the set due date, or where the debtor violates the obligation to permit a certain operation or refrain from one, the enforcement agent may impose a non-compliance levy on the debtor in accordance with the rules provided by § 26¹ of this Code.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

§ 184. Enforcement of a judgment which requires the debtor to provide a manifestation of intention

(1) Where the debtor has been ordered by judgment to provide a certain manifestation of intention, the judgment replaces the manifestation. If the manifestation depends on the performance of an obligation by the party seeking enforcement, the manifestation is deemed to have been provided when the party seeking enforcement or the enforcement agent has offered performance of the obligation to the debtor according to this Code.

(2) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(3) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(4) Where property is acquired in a situation provided for by subsection 1 of this section, the legal consequences of such acquisition are the same as where the acquisition is achieved by a transaction. [RT I 2006, 7, 42 – entry into force 04.02.2006]

§ 185. Handing over an item of property under a judicial disposition which requires transfer of ownership

Where the debtor is required to transfer ownership or create a right in an item of movable property, such an item is deemed to have been handed over when the enforcement agent takes possession of the item for the purpose of handing it over to the party seeking enforcement. The item is deemed to have been handed over on a transaction basis.

§ 186. Right of the party seeking enforcement to claim compensation

(1) Where a judicial disposition prescribes monetary compensation for violating an obligation but the defendant does not comply with the disposition, in enforcement proceedings the party seeking enforcement may only demand the payment of monetary compensation.

(2) The provisions of this Part do not preclude or restrict the right of the party seeking enforcement to demand that the debtor compensate for harm caused by failure to comply with the enforceable title.

Part 4 CLAWBACK OF A DEBTOR'S PROPERTY

§ 187. Clawback of debtor's property under enforcement procedure

(1) A party seeking enforcement may make a court claim against the debtor and their counterparty and demand that the court set aside, on the grounds and in accordance with the rules provided by this Part, any transaction that harms the interests of the parties seeking enforcement (hereinafter, 'clawback'). For the purposes of this Part, disposing of a property object in enforcement proceedings is also deemed to be a transaction.

(2) The party seeking enforcement may claim a clawback if they have an enforceable title, their claim has become due and a levy on the debtor's property has not resulted in full satisfaction of the party's claim or there is reason to presume that making such a levy will not lead to the claim being satisfied.

§ 188. General grounds for clawback of transactions

(1) The court sets aside a transaction which has been concluded by the debtor within three years that precede the making of the court claim by the party seeking enforcement for setting such a transaction aside, provided the debtor knowingly carried out the transaction to harm the interests of the party seeking enforcement and provided the counterparty knew or should have known this at the time when the transaction was carried out.

(2) Where a counterparty is a person connected with the debtor or the transaction was concluded six months before commencement of enforcement proceedings or before attachment of the debtor's property, it is presumed that the counterparty knew or should have known that the transaction harms the interests of another creditor.

(3) A person's connection with the debtor is ascertained according to § 117 of the Bankruptcy Act.

§ 189. Clawback of a gift agreement

(1) The court sets aside any gift agreement concluded by the debtor, except where the agreement was concluded earlier than two years before the court claim to set the transaction aside was made.

(2) The court may, on the grounds provided by subsection 1 of this section, also set aside a contract of sale, a barter agreement or any other contract, if the disparity in the obligations of the parties makes it evident that the nature of the contract that was concluded was, even if only in part, that of a gift.

(3) Benefits and customary gifts that were commensurate to the financial situation of the debtor are not subject to clawback.

§ 190. Clawback of division of community property

The court sets aside a marital property agreement between the debtor and their spouse, or a registered partnership contract between the debtor and their registered partner to the extent that the contract deals with pecuniary rights, or an agreement on division of community property, by which the debtor renounces, to a

material extent, their property or their share in the community property, if the marital property agreement or registered partnership contract or the agreement on division of community property was entered into:

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

- 1) after the commencement of enforcement proceedings;
- 2) within one year before the commencement of enforcement proceedings;
- 3) before commencement of the time limit mentioned in clause 1 of this section but within two years before the commencement of enforcement proceedings unless the debtor or their spouse or registered partner proves that the debtor was solvent at the time of dividing the property or of renouncing it and did not become insolvent due to the division or renouncement.

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

§ 191. Clawback of the granting of security

(1) The court sets aside the granting of security if the security was granted:

- 1) after commencement of enforcement proceedings;
- 2) in order to secure an obligation which had arisen within six months before the commencement of enforcement proceedings if the debtor was not required to grant such security at the time when the obligation arose or if the debtor was insolvent at the time of granting the security and the person in whose favour the security was granted was or should have been aware of the insolvency;
- 3) within two years before the commencement of enforcement proceedings if the security was granted in favour of a person connected with the debtor unless the person or the debtor proves that the debtor was solvent at the time of granting the security.

(2) The granting of a security is not subject to clawback if the security was granted in order to secure a loan or any other credit agreement and after granting the security the debtor came into possession of the amount of money corresponding to the value of the security according to the secured contract, except in a situation mentioned in clause 3 of subsection 1 of this section.

(3) A person connected with the debtor is presumed to be aware of the debtor's insolvency.

§ 192. Legal operations by heir or beneficiary

Where the heir or beneficiary has, out of the decedent's estate, satisfied a claim for the compulsory portion, executed a legacy or fulfilled a testamentary obligation, the party seeking enforcement who has a claim in respect of the estate and whose claim, in the event of bankruptcy proceedings regarding the estate, would rank higher than or equal to the claim of the recipient of such performance may require, by the same method as regarding a gift agreement concluded by the heir or beneficiary, that such an operation be set aside.

§ 193. Calculation of time limits

Where, already before obtaining the enforceable title or before their claim falls due, the party seeking enforcement had, in writing, informed a person who carried out a transaction with the debtor of the intention to file a court claim to set the transaction aside, the time limits are calculated as of the time of reception of the notice, provided the debtor was already at that time unable to satisfy the party's claim and provided the court claim for clawback is filed within one year following that time.

§ 194. Clawback in respect of legal successors

A court claim for clawback may be made, according to the rules established in § 116 of the Bankruptcy Act, also against a legal successor of the person who concluded a transaction with the debtor.

§ 195. Legal consequences of a clawback of property

(1) Where the court sets aside a transaction under the rules governing clawback, the counterparty is required to hand over what they received under the transaction, together with any fruits and other gains, to the enforcement agent conducting enforcement proceedings, to be disposed of by the agent for the benefit of the party seeking enforcement. The enforcement agent organises the distribution of what has been handed over between the parties seeking enforcement according to the order in which the parties' claims have been filed.

(2) The legal consequences of clawback are subject to the provisions of subsections 2–4 of § 119 of the Bankruptcy Act.

(3) The counterparty may require the debtor to return what they received under the transaction or, if such a return is impossible, may require that the debtor make compensation for the value of what was received, to be provided within six months following the entry into effect of the judgment ordering return of the property received from the counterparty or, if the counterparty handed over the property subject to clawback to the party seeking enforcement without a judgment, following the date of its handing over.

§ 196. Conditional setting aside of a transaction

Where the party seeking enforcement only has, against the debtor, a judicial disposition declared enforceable without delay or a judicial disposition that contains a reservation, the court –in the decision by which it sets the

transaction aside – makes the permissibility of enforcement proceedings subject to the entry into effect of the decision against the debtor or to cessation of the reservation contained in the decision.

§ 197. Commencement of bankruptcy proceedings

(1) When the debtor is declared insolvent, the right to conduct proceedings regarding a claim made by the insolvent debtor's creditor to set aside a transaction passes to the trustee in bankruptcy. In such a situation, the only defendant is considered to be the counterparty of the transaction.

(2) If proceedings regarding a dispute concerning the setting aside of a transaction are still pending before the court at the time the debtor is declared insolvent, such proceedings are suspended. On an application of a trustee in bankruptcy, the proceedings may be continued.

(3) A trustee in bankruptcy may amend the court claim.

(4) If the trustee in bankruptcy does not intend to continue the proceedings, they may be continued regarding case costs on an application of a principal party. If the trustee in bankruptcy does not intend to continue proceedings, this does not deprive them of the right to make a court claim for clawback under the Bankruptcy Act.

Part 5 SPECIAL RULES FOR ENFORCEMENT OF DECISIONS, JUDGMENTS AND ORDERS IN MISDEMEANOUR AND CRIMINAL CASES

Chapter 9 ENFORCEMENT OF DECISIONS, JUDGMENTS AND ORDERS IN MISDEMEANOUR AND CRIMINAL CASES

Subchapter 1 General Provisions

§ 198. Sequence of levies

(1) The debtor's property is levied upon in the following sequence:

- 1) a levy on money, valuables, securities and claims;
- 2) a levy on the remainder of movable property;
- 3) a levy on immovable property.

(2) Having regard to the sequence of levies provided by subsection 1 of this section, the debtor's share in joint property is levied upon last.

Subchapter 2 Enforcing a Fine Imposed as a Sanction for a Misdemeanour

§ 199. Rules for collecting a fine

(1) Enforcement proceedings for the collection of a fine imposed as a sanction for a misdemeanour are conducted on the basis of a decision of an out-of-court proceedings authority or of a judgment, which has entered into effect and which has been transmitted to the enforcement agent for enforcement.

(2) A fine imposed as a sanction for a misdemeanour is charged to the national budget. The enforcement agent notifies this to the representative of the party seeking enforcement.

(3) Where the out-of-court proceedings authority that imposed a fine is the municipal executive, the fine imposed as a sanction for a misdemeanour is charged to the budget of the municipality that made the decision.

(4) Where the out-of-court proceedings authority that imposed the fine is a private legal person that has concluded an administrative contract with the municipal executive, the fine imposed as a sanction for the

misdeemeanour is charged to the budget of the municipality that concluded the administrative contract with the person.

§ 200. Time limit for paying the fine

(1) Where the court or the out-of-court proceedings authority has not allowed a fine to be paid in instalments, the full amount of the fine is paid. The enforcement agent sets a time limit, which is not shorter than 10 days or longer than 30 days, for the debtor to pay the full amount of the fine. The debtor presents a payment document to the enforcement agent concerning payment of the fine.

(2) Where the out-of-court proceedings authority or the court has allowed a fine to be paid in instalments under subsections 2 and 3 of § 66 of the Penal Code, the fine is paid in instalments and within the time limit prescribed by the decision or judgment.

(3) If the fine is not paid within the designated time limit or the time limit for paying an instalment of the fine is not complied with and such a time limit has not been extended, the enforcement agent makes a levy on the debtor's property according to the rules provided by this Code.

§ 201. Converting a fine into a short-term custodial sentence

(1) If the full amount of a fine has not been paid by the designated due date or if the due date for the payment of an instalment of a fine is not complied with and the time limit for paying the fine has not been extended and the debtor has no property on which to make a levy, the enforcement agent notifies the party seeking enforcement, when one year has elapsed after the agent opened proceedings on the fine, but not later than three years after the entry into effect of the decision in the misdemeanour case, of the impossibility of enforcement. Where no circumstances are present that would preclude conversion of the sanction, the party seeking enforcement sends an application, to the district court that mandated the enforcement of the judgment, for the fine to be converted into a short-term custodial sentence according to § 72 of the Penal Code. The party seeking enforcement notifies the debtor and the enforcement agent of having filed the application.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1¹) Where the time limit for paying a fine has been extended and the debtor does not comply with the time limit prescribed by the decision extending the time limit in question, and the debtor has no property to levy upon, the enforcement agent, when two months have elapsed from the due date for paying the fine as stated in the decision extending the time limit for payment but not later than three months after the entry into effect of the decision made concerning the misdemeanour, notifies the party seeking enforcement of the impossibility of enforcement. The party seeking enforcement files an application with the court for the fine to be converted into a short-term custodial sentence, and notifies this to the enforcement agent and to the debtor according to the rules provided by subsection 1 of this section.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) An application mentioned in subsection 1 of this section states the amount of the fine that has been paid.

(3) If the debtor pays a fine in full before they are ordered to serve a short-term custodial sentence in lieu of the fine, the enforcement agent terminates the proceedings to collect such a fine and notifies the district court without delay of the fact that the fine has been paid.

(4) Where a short-term custodial sentence has been imposed by court order in a case for enforcement of a fine, the enforcement agent terminates enforcement proceedings in the case.

§ 202. Expiry of the limitation period for enforcing a judgment or a decision of an out-of-court proceedings authority – termination of enforcement proceedings that have been commenced to collect the fine in question

(1) Where a fine imposed in a misdemeanour case by judgment or by decision of an out-of-court proceedings authority has not been collected within the time limit provided by § 82 of the Penal Code, the enforcement agent, on account of expiration of the limitation period for enforcement, terminates enforcement proceedings that have been commenced to collect such a fine.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]

§ 203. Death of the individual debtor – termination of enforcement proceedings that have been commenced to collect a fine

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

On the death of the individual debtor, the property of the debtor's heirs or beneficiaries is not levied upon and enforcement proceedings are terminated.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

Subchapter 3

Enforcement of a Monetary Penalty and a Forfeiture of Property Imposed for a Criminal Offence

§ 204. Rules for collecting a monetary penalty or forfeiture of property

(1) Enforcement proceedings to collect a monetary penalty or forfeiture of property imposed in a criminal case are conducted on the basis of a judgment that has entered into effect and that has been transmitted to the enforcement agent for enforcement.

(2) The amount of a monetary penalty or forfeiture of property is charged to the national budget.

§ 205. Time limit for paying a monetary penalty or forfeiture of property

(1) Where the court has not ordered a monetary penalty to be paid in instalments, such a penalty or forfeiture of property is paid as a lump sum. For paying the penalty or forfeiture, the enforcement agent sets the debtor a time limit which is not shorter than 60 days or longer than 90 days. The debtor presents to the enforcement agent a payment document concerning payment of the amount of monetary penalty or forfeiture of property.

(2) If the court has, under subsection 1 of § 66 of the Penal Code, ordered payment of an amount of monetary penalty in instalments or, under § 424 of the Code of Criminal Procedure, extended the time limit for paying the amount of a monetary penalty or forfeiture of property, such an amount is paid in instalments and within the time limit as prescribed by the judgment or order.

§ 206. Consequences of failure to pay a monetary penalty or a forfeiture of property

(1) Where the debtor has not paid an amount imposed as a monetary penalty or forfeiture of property or a part of monetary penalty within the set time limit, the enforcement agent explains to the debtor their right to make a motion to the court to grant an extension of enforcement of the monetary penalty or forfeiture of property under § 424 of the Code of Criminal Procedure. The enforcement agent informs the debtor of the consequences of failing to pay the amount imposed as a monetary penalty or forfeiture of property.

(2) If the amount imposed as a monetary penalty or forfeiture of property is not paid by the due date or the time limit for the payment of an instalment of the amount of such a penalty is not complied with and the time limit for paying the amount of the penalty or forfeiture has not been extended and the debtor has no property on which a levy could be made, the enforcement agent, when three years have elapsed from acceptance for enforcement of the penalty or forfeiture but not later than seven years after the entry into effect of the judgment, notifies the party seeking enforcement of the impossibility of enforcing the judgment. If there are no circumstances to preclude conversion of the sanction, the party seeking enforcement transmits the application to the district court that mandated the enforcement of the judgment, for the monetary penalty or forfeiture of property to be converted to imprisonment according to §§ 70 and 71 of the Penal Code. The party seeking enforcement notifies the debtor and the enforcement agent of having filed the application.
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) Where the debtor pays the amount of a monetary penalty or forfeiture of property in full before a converted sentence is imposed, the enforcement agent terminates the proceedings that have been commenced to collect such amounts and notifies the district court without delay, in writing, of the amount of the monetary penalty or forfeiture of property having been paid.

(4) Where the court has made an order imposing a converted sentence, the enforcement agent, on the basis of such an order, terminates enforcement proceedings for the collection of the corresponding monetary penalty or forfeiture of property.

§ 207. Expiration of the limitation period for enforcing a monetary penalty or forfeiture of property – termination of enforcement proceedings that have been commenced to collect such a penalty or forfeiture

(1) Where a monetary penalty or forfeiture of property has not been collected within the time limit provided by § 82 of the Penal Code, the enforcement proceedings that have been commenced to collect such a penalty or forfeiture are terminated by the enforcement agent on account of expiration of the limitation period for enforcement.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) [Repealed – RT I, 14.03.2011, 1 – entry into force 24.03.2011]

§ 208. Death of the individual debtor – termination of enforcement proceedings that have been commenced to collect a monetary penalty or forfeiture of property

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

On the death of the individual debtor the property of the debtor's heirs or beneficiaries is not levied upon, and enforcement proceedings are terminated.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

Subchapter 4

Enforcement of Other Enforceable Monetary Claims Resulting from Misdemeanour and Criminal Proceedings

§ 209. Enforcement of costs of misdemeanour proceedings and of other enforceable monetary public-law claims arising in a misdemeanour case

Enforcement of the costs of misdemeanour proceedings, or of other enforceable monetary public-law claims, which have been awarded by a judgment or court order or by a decision or order of an out-of-court proceedings authority, is subject to subsections 2–4 of § 199, subsection 1 of § 200 and §§ 202 and 203 of this Code.

§ 210. Rules for enforcement of costs of criminal proceedings and of other enforceable monetary public-law claims

Enforcement of the costs of criminal proceedings and of other enforceable monetary public-law claims which have been awarded in a criminal case by a judgment or court order is subject to the provisions of subsection 2 of § 204, subsection 1 of § 205 and §§ 207 and 208 of this Code.

§ 211. Enacting the rules for reception of payments made under enforceable monetary public-law claims arising in a criminal or administrative or misdemeanour case

The Minister in charge of the policy sector enacts: the rules for reception, into the budget of the State, of payments of monetary penalties or forfeitures of property, of the costs of criminal proceedings and of other enforceable monetary public-law claims arising in a criminal case; the rules for reception, into the budget of the State, of fines, case costs and of other enforceable monetary public-law claims awarded by a judgment or court order in administrative court proceedings; and the rules for reception, into the budget of the State, of fines or cautionary fines, case costs and other enforceable monetary public-law claims arising in a misdemeanour case.

Part 6

SERVING A MANIFESTATION OF INTENTION THROUGH AN ENFORCEMENT AGENT

§ 212. Serving a manifestation of intention

A person may relay a manifestation of their intention, or a document, to another person through an enforcement agent by presenting the corresponding application and documents to the enforcement agent.

§ 213. Application of the Code of Civil Procedure

Unless otherwise provided by law, the service of manifestations of intention through an enforcement agent is subject to the provisions of the Code of Civil Procedure concerning service of procedural documents. To serve the document, the enforcement agent may use any method permitted for the court.

§ 214. Serving a manifestation of intention by public notice

Service of a manifestation of intention by public notice may be arranged on the basis of a court order where it is manifestly not possible to transmit the manifestation by any other method or if it must be communicated to the public or to an unknown person.

§ 215. Enforcement agent's fee

The enforcement agent's fee for transmitting a manifestation of intention is provided for by the Enforcement Agents Act.

§ 216. Documenting the service

(1) With respect to the service of a document, the enforcement agent creates a service report in the form enacted by the Minister in charge of the policy sector. An original copy of the report is issued to the sender of the document to serve as proof of the document's transmission.

(2) A service notice and a service report state, among other things, the name of the person based on whose application the document was served.

Part 7

COMPLAINTS, APPEALS AND COURT CLAIMS IN ENFORCEMENT PROCEEDINGS

§ 217. Appealing a decision and complaining of an action of the enforcement agent

(1) Unless otherwise provided by law, a party to enforcement proceedings may file, with the enforcement agent, within ten days following the day on which the party becomes or should have become aware of the decision to be appealed or of the actions to be complained of, an appeal concerning the agent's decision or a complaint concerning the agent's actions in relation to enforcing the enforceable title or refusing to perform an enforcement operation.

(2) The enforcement agent can reinstate the time limit mentioned in subsection 1 of this section in accordance with the rules provided by the Code of Civil Procedure. An appeal may be filed, with the district court that serves the area in which the agent has their office, against a decision to refuse reinstatement of a time limit. The order of the court of first instance concerning the appeal cannot be appealed further.

(3) A complaint concerning an action of the enforcement agent is considered by the agent in the presence of the parties to proceedings within 15 days, and a decision is made within 10 days following consideration.

(3¹) The enforcement agent may extend the time limit for making a decision concerning a complaint by ten days if the case is legally complex or if the making of the decision is fraught with complications due to other objective reasons.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(4) The enforcement agent informs the parties to proceedings of the time of consideration of the complaint at least three working days before such consideration. A party's non-appearance at consideration does not preclude the consideration.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(5) The enforcement agent makes a decision, which includes a statement of the reasons for the decision, concerning the complaint and serves it on the parties to proceedings.

(6) If a party to proceedings does not file their complaint within the time limit mentioned in subsection 1 of this section, the party loses the right to subsequently rely on facts which the party could have presented in the complaint.

(7) If, by judgment or court order, the court requires the enforcement agent to consider a complaint anew and to make a decision concerning it, the agent disposes of the complaint following the time limits provided by subsection 3 of this section. The time limit for disposing of the complaint starts to run from the time of learning of the entry into effect of the judgment or order.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

§ 218. Appeal against a decision of the enforcement agent concerning a complaint

(1) A party to proceedings may, within ten days following being served with the enforcement agent's decision concerning a complaint against the agent's actions or appeal against the agent's decision, appeal the decision to the district court in whose judicial district the agent's office is situated. The appeal cannot be filed with the court without first having been filed with the agent.

(2) The court, under the action-by-petition procedure, considers an appeal against the decision of the enforcement agent within 15 days following the filing of the appeal. The court may, pending disposition of the appeal, decide to suspend enforcement proceedings subject to the provision of a security or without a security, or to continue such proceedings subject to the provision of a security.

(3) The parties to proceedings and the enforcement agent may appeal the order of the district court concerning the agent's decision. The order of the circuit court of appeal concerning the appeal may be appealed. The order may not be appealed where the monetary claim that is being enforced in enforcement proceedings is less than 2000 euros – or where the monthly amount of the claim for periodic payments is less than 150 euros – and the circuit court of appeal has affirmed the operative part of the district court's order, except where the claim that is being enforced is a child's claim for maintenance. The order of the circuit court of appeal concerning the appeal against the decision by which the non-compliance levy was imposed cannot be appealed to the Supreme Court.

§ 219. Appealing the order of the judge in enforcement proceedings

Unless otherwise provided by law, the order made by the judge in enforcement proceedings may be appealed.

§ 220. Contestation, by a person not named in the enforceable title, of acceptance of the title for enforcement

(1) The debtor may, by filing a court claim against the party seeking enforcement, contest acceptance of the enforceable title for enforcement in a situation provided for by § 18 of this Code and also where enforcement proceedings have been commenced against a person not named in the enforceable title.

(2) The limitation period for filing such a court claim is ten days following service, on the debtor, of the enforcement notice.

§ 221. Court claim for declaring compulsory enforcement to be impermissible

(1) The debtor may make a court claim against the party seeking enforcement to obtain a declaration that compulsory enforcement of the enforceable title is impermissible, primarily for the reason that the claim has been satisfied, its performance has been deferred, or it has been set off. The granting of the court claim does not affect the validity or legal force of the enforceable title.

(1¹) Where the enforceable title that has been presented for compulsory enforcement is other than a judicial disposition, particularly where it is a title mentioned in clauses 18–19¹ of subsection 1 of § 2 of this Code, the debtor can also submit, in the court claim seeking a declaration that compulsory enforcement of the title is impermissible, any objections to the existence and validity of the claim arising from such a title.
[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(2) The objections mentioned in subsection 1 of this section are admissible in relation to a judicial disposition only if the grounds on which they are based arose after its entry into effect.

(3) The court claim may be filed until the end of enforcement proceedings.
[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(4) If the court claim is granted, the party seeking enforcement bears the costs of enforcement.

§ 222. Court claim by a third party for release of attachment imposed on property or for a declaration that compulsory enforcement is impermissible for other reasons

(1) A third party who has, with respect to property that is subject to compulsory enforcement, a right that precludes such enforcement, especially the right of ownership or a limited real right, may file a court claim with the court in whose judicial district compulsory enforcement is conducted, for release of the attachment imposed on the property or for a declaration that compulsory enforcement is impermissible for other reasons.

(2) A third party may also make a court claim mentioned in subsection 1 of this section when, in enforcement proceedings, a restraint on disposal that is mentioned in § 88 of the Act on the General Part of the Civil Code and that has been imposed in favour of the party has been violated.

(3) The court claim is made against the party seeking enforcement and the debtor.

(4) If the court claim is granted, the enforcement agent releases the attachment imposed on the property in question and files an application with the relevant register to remove the restraining note.

(5) Where, by the time the auction is held, the holder of the right which precludes auction of the attached property has not presented to the enforcement agent an arrangement or a judicial disposition for releasing the attachment imposed on the property or for suspending or terminating enforcement proceedings, and the property is sold at the auction, such a third party loses their right to the property in question and is only entitled to the auction proceeds.

§ 223. Court claim for declaring an auction void

(1) Where property has been sold to a person who did not have a right to purchase it or where an auction was held based on an attachment that was void or where other material conditions of the auction were violated, a party to enforcement proceedings may file a court claim, within 30 days following service of the auction report, for declaring the auction void.

(2) When the auction is declared void:

1) the debtor may require the purchaser, under § 80 of the Law of Property Act, to hand over the item of property that was sold or, if this is impossible, file a claim under the provisions governing unjustified enrichment;

2) the party seeking enforcement may require the enforcement proceedings to be continued;

- 3) the purchaser may require the party seeking enforcement to refund the purchase price and the enforcement agent to refund the costs of enforcement, including the enforcement agent's fee;
- 4) a party to proceedings may require that the enforcement agent compensate for harm according to the Enforcement Agents Act.

§ 223¹. Motion for termination of enforcement proceedings due to expiry of the limitation period for enforcing the claim

(1) The debtor may file a motion with the court to terminate enforcement proceedings due to expiry of the limitation period for enforcing the claim when the period provided for by § 157 of the Act on the General Part of the Civil Code has elapsed since the claim inherent in the judicial disposition that has entered into effect – or in another enforceable title – was first presented for enforcement. The court considers the debtor's motion in action-by-petition proceedings.

(2) When the motion mentioned in subsection 1 of this section is considered by the court, the parties to proceedings are the person who made the motion and the party seeking enforcement.

(3) The court may, on a corresponding application, impose measures of interim protection in the case.

(4) The order by which the court disposed of the motion to terminate enforcement proceedings due to expiry of the limitation period for enforcing the claim may be appealed by the person who made the motion or by the party seeking enforcement.

(5) The motion may be filed with the court until the end of enforcement proceedings.

(6) The granting of the motion does not exempt the debtor from bearing enforcement costs.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

Part 8 IMPLEMENTING PROVISION

§ 224. Entry into force and implementation of this Code

This Code enters into force at the time and according to the rules provided by the Act to Implement the Code of Civil Procedure and the Code of Enforcement Procedure.

¹Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L186/2019, 11.07.2019, pp. 122–137)