



SPI Albania Project

Improving auction procedures for immovable collateral under foreclosure

Impact Assessment Questionnaire

Prepared by
SPI Albania Secretariat

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I. Context

The procedures for the foreclosure of the collateral in Albania are regulated by the Civil Procedure Code, Chapter 3, Art.560-580 “The enforcement on immovable property, ships and airplanes”. The Bailiff Office is in charge with organizing the foreclosure procedures (Art. 527 CPC).

At present, the enforcement on immovable property is very rarely a success. In the World Bank’s Doing Business 2009 Report, Albania is ranked 89th on the Enforcing Contracts section. Despite the fact that there are no statistical data available on how many cases ended with the bidder paying the fixed price in an auction and became the new owner, bailiffs confirm that this number is extremely low. It happens very seldom that after the second auction the creditor takes the immovable against the price designated for the second auction. In case the immovable has been appraised by the experts contracted by the Bailiff Offices at a value higher than the debt (even after it was reduced by 20% in the second auction), the creditor has to pay to the debtor the difference between the appraised value and amount of the debt. Due to the ceiling in the fixed assets to total assets ratio, banks have to sell the immovable in a short time and sometimes in unfavorable conditions.

In addition to the above mentioned the successful enactment of the foreclosure procedures related to the bailiff service is hindered also by:

- Undefined time periods for the bailiff to notify the debtor;
- Subjectivity in determining the value of the collateral for the first auction and redefining the value of the collateral for re-auction, in the case that the first auction has failed, as there are no commonly set standards for real estate property valuation;

These problems faced by the banks, largest users of the enforcement system, result in increased cost, wasted time in cumbersome procedures and impairment of the value of the collateral.

SPI Albania is running a project on improving the procedures for the foreclosure of the immovable collateral with three objectives:

1. **To undertake analytical activities that would support the enactment of law amendment proposals.**
2. To support the improvement of the Bailiff Office activity.
3. To improve the quality of the buildings evaluation.

The Albanian Government is strongly determined to make deep reforms in the Legal System. Part of the agenda is the improvement of the legal framework of the enforcement system.

Under these circumstances, and with the confirmation of the Ministry of Justice on the revision of the Civil Procedure Code, the PWG members discussed and agreed to make another effort and to prepare a new proposal on the necessary amendments to CPC to be sent to MoJ.

The PWG based on their professional experience, on the studies and proposals prepared by EURALIUS and the Romanian experience discussed and with the support of SPI Secretariat prepared a Draft Proposal on CPC. On October 06, 2008, the draft proposal was delivered by the Chairman of AAB to the Head of the Commission for Legal Affairs, Public Administration and Human Rights, Albanian Parliament, to the Head of the Commission for the Economy and Finance, Albanian Parliament and to the Prime Minister. The PM of the project delivered the draft proposal to the Ministry of Justice.

On October 13, 2008, the PM of the project, a representative from SPI Albanian and the legal advisor of AAB met with the advisor on the Minister of Justice and the Head of the Directory of Enforcement to discuss on the draft proposal prepared under SPI Albanian support.

This meeting is the first activity that SPI Albania undertook in order to support the enactment of the amendment proposal.

PWG composition

Project Owner: Mr. Seyhan Pencapligil, General Director, BKT
Project Manager: Mrs. Veronika Prifti, Legal Department Manager, BKT



Deputy Project Manager: Mrs. Rudina Gorishti, Legal Department Deputy Director, Bank of Albania
Technical Anchor (TAN): Kimmo Vikman (peer reviewer)

Project Working Group Members: Andin Jakova, BNT (member)
 Ermanl Dobi, Tirana Bank (member)
 Yllka Majko, Tirana Bank (observer)
 Altin Hysi, Emporiki, (member)
 Arta Taipi , UBA (member)
 Rudina Ziu, RZB (member)
 Petrit Qarri, MoJ (member)
 Odeta Hyseni, EURALIUS, (observer)
 Dorina Mehmeti, IFC (member)

II. Purpose of the banking survey

The banking community is one of the largest users of the enforcement system. The purpose of this survey is to assess the economic impact that these amendment proposals will have in the banking community. This Regulatory Impact Assessment (RIA) seeks to provide an estimate of the possible incremental costs and benefits generated by each individual provision, trying to identify as well the area where the major part of underlying costs and benefits will be concentrated. This will help regulators and banks in the forthcoming negotiations to better acknowledge the costs and the benefits that these amendment proposals, in individual and in aggregate level, will produce.

Type of Regulatory Optimization

All provisions contained in this document fall into in the following taxonomy of Regulatory Optimization:

- Strategic objective: Opportunities to engage in financial transactions;
- Strategic area: Rule of law and contact enforcement;
- Value creation driver: Civil regulations affecting costs of the banking activity.

III. Procedures to run the banking survey

You are kindly requested to support our assessment by answering this questionnaire. Please send your answers to SPI Secretariat who stands ready to offer you more details. Your answers will be treated in strict confidentiality. The results of the banking survey will be disclosed only at aggregate level. Please send your answers by **10/24 /2008**.

The SPI Secretariat estimates that the filling of the questionnaire will take about 60 - 90 minutes broken down as follows: a) “PWG proposals”: 10 minutes; b) “Qualitative Cost and Benefits”: 10 minutes; c) “Detailed Analytical Approach”: 40 – 70 minutes.

For eventual further clarification needs, please indicate below the contacts of the person who completed the questionnaire:

Name.....
Position.....
Bank.....
Email address:.....
Tel/Fax.....

Thank you for participating in this survey!



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1. General Description of the Amendment Proposals

The Project Working Group has prepared a set of proposals, divided, for methodological purposes, in three packages:

Package 1. Core changes that increase the efficacy of the enforcement system

Objective: To amend a core package of articles in CCP that will tackle the fundamental problems created by the current framework. This package refers to the provisions on: The executive order (art. 511); The execution (art. 515); Evaluation of property (art. 564); Auction procedures (art. 567); Repetition of the auction (art. 577).

Package 2. Other changes that further improve the efficacy of the enforcement system

Objective: To amend a more extensive package than package 1, that, in addition to fundamental issues, will achieve a better use of resources and better regulated process –increase in efficacy. In addition to the provisions in Package 1, this package refers to: Notification for the legal entities (art. 141); The voluntary execution (art. 517); The execution if the debtor's address is not known (art. 522); The sequester order (art. 560); Notification of the winner (art. 573); and Time limit to pay the price (art. 574); Possessing the purchased property (art. 575).

Package 3. Changes that achieve fairness and equal treatment

Objective: To amend a comprehensive package that will ensure a just and effective process of collateral enforcement. In addition to the provisions in Package 2, this package contains: Article 144; Article 152; Execution expenses (art. 525); The sequester order on a different property (art. 528); The premises for the auction (art. 569).



2. PWG Proposals¹

Question 1. What is your assessment, will the following respective proposals save time in the execution process (column 4)? Yes No

Question 1.1 If Yes, by how many days? Please select one of the options (column 5): A. 10 days; B. 20 days; C. 30 days; D. 40 days E. Other (please specify)

| 1 | 2 | 3 | 4 | 5 |
|--|--|---|----------|------------------------|
| No. | Article (no) | Proposed amendment | Yes / NO | Option A B C D E |
| Package 1 - Core changes that increase the efficacy of the enforcement system | | | | |
| 1 | Article 511 The executive order | The executive order is issued within 5 days from the date of creditor's request. For the sigurimin e padise and the fines written by the court are not issued executive orders, which are executed directly from the bailiff office, after the notification of the decision. | | |
| 2 | Article 513 | The executive order to be issued in two copies | | |
| 3 | Article 515 Commencement of the execution | For the execution of the executive titles the creditor should prepare the file containing: The request for execution, the executive title, the executive order, the receipt of paid tax, if necessary the act of procurement. If the bailiff considers the file is not adequately complied the creditor has 5 days to fill in the file correctly. The request for execution is considered as registered from the date presented in the bailiff office. The bailiff should execute the executive order within 10 days from the submission of the request. Court orders on masen e sigurimit te padise / charge of securing the lawsuit and the penalties issued by the court are executed within 3 days from the day of announcement. | | |
| 4 | Article 564 Valuation of the property | If the debtor and the creditor do not reach an agreement, the bailiff officer determines within 15 days the value of the property based on the expertise act presented by a <i>licensed</i> expert based on the forced sale value , in the moment of seizure. The bailiff should notify the debtor and the creditor on the appraised value within 10 days from the appraisal process. Against the value both parties might appeal. | | |
| 5 | Article 567 Auction procedures | Abrogated | | |
| 6 | Article 577 Repetition of the | If in the first auction no bidder has offered a higher price than the initial price, or there has been no bidder the sale continues with a second auction. The bailiff officer within 10 days from the first auction determines the price, which is | | |

¹ A detailed presentation of the selected articles, existing version and the proposed version, is presented in Annex 1.



| 1 | 2 | 3 | 4 | 5 |
|--|---|--|----------|------------------------|
| No. | Article (no) | Proposed amendment | Yes / NO | Option A B C D E |
| | auction | 20% lower than the initial price. The second auction should start not later than 15 days after the price is set. Within 30 days from the payment of the price from the buyer or from the acceptance of the property from the bank, the bailiff places the property under the possession of the buyer / creditor. | | |
| Package 2 - Other changes that further improve the efficacy of the enforcement system | | | | |
| 7 | Article 141 | The notification process for the business entities is the same as for the private entities. The notification is posted in district court, district commune or birthplace or last known location | | |
| 8 | Article 517 The voluntary execution | Upon the debtor's request and after the creditor is expressed the court might postpone the time of the payment | | |
| 9 | Article 522 The execution if the debtor's address in not known | The judge with the request of the bailiff assigns a representative, within 10 days | | |
| 10 | Article 560 The sequester order | Immovable Property Registry Office has to register the act of the Bailiff officer within 10 days after it has arrived. A copy of the registry is forwarded to the debtor. | | |
| 11 | Article 573 Notification of the winner | The specific rules on the auction procedures are defined / set with a directive of the Council of Ministers | | |
| 12 | Article 574 Time limit to pay the price | The buyer should pay the price within 15 days from the termination of the auction | | |
| 13 | Article 575 Taking the possession | The buyer might take possession of the property within 10 days | | |
| Package 3 - Changes that achieve fairness and equal treatment | | | | |
| 14 | Article 144 | The rules in this chapter on notifications are applied by the public and private Bailiff Service. | | |



| 1 | 2 | 3 | 4 | 5 |
|-----|--|---|----------|------------------------|
| No. | Article (no) | Proposed amendment | Yes / NO | Option A B C D E |
| 15 | Article 152 | This provision to remain as it is. | | |
| 16 | Article 525 Execution expenses | If an extra procedure is requested by the debtor, he/she has to bear the expenses | | |
| 17 | Article 528 The sequester order on a different property | Apart the case when both parties with an act have defined the wealth (properties) that will secure the claim in which execution is requested. | | |
| 18 | Article 569 The premises for the auction | The auction can take place in the Bailiff Office, the lodgment of the immovable property or in any other appropriate public place. | | |

3. Output of the First Negotiation Round with Ministry of Justice

| No. | Proposed article (no) | MoJ Agreed / Not agreed | Comment |
|--|-----------------------|-------------------------|--|
| Package 1 - Core changes that increase the efficacy of the enforcement system | | | |
| 1 | Article 511 | Agreed | |
| 2 | Article 513 | Partially agreed | MoJ agrees with the problem identified, but the solution will be further discussed internally |
| 3 | Article 515 | Partially agreed | MoJ did not agree to reduce time periods |
| 4 | Article 564 | Partially agreed | Agreed on the time periods; Not agreed on the initial value of the auction (PWG liquidation value vs. MoJ market value) |
| 5 | Article 567 | Agreed | |
| 6 | Article 577 | Partially agreed | MoJ agrees with the problem identified, but the solution will be further discussed internally |
| Package 2 - Other changes that further improve the efficacy of the enforcement system | | | |
| 7 | Article 144 | Agreed | |
| 8 | Article 517 | Agreed | |
| 9 | Article 522 | Agreed | |
| 10 | Article 560 | Agreed | |
| 11 | Article 573 | Agreed | |



| | | | |
|----|--|-------------------------|--|
| 12 | Article 574 | Agreed | |
| 13 | Article 575 | Agreed | |
| | Package 3 - Changes that achieve fairness and equal treatment | | |
| 14 | Article 144 | Agreed | |
| 15 | Article 152 | Not agreed | The right for the other party to be present in the process is considered as normal |
| 16 | Article 525 | Agreed with the concept | Banks will pay only the fees |
| 17 | Article 528 | Agreed | |
| 18 | Article 569 | Agreed | |

4. Validation of the Qualitative Cost and Benefit Analysis, for regulated firms

SPI Secretariat, based on the discussions during the PWG meeting and the rationale of the proposals prepared by the various PWG members, prepared the following qualitative cost and benefit analysis for the aggregated CPC's amendment proposal.

We would very much appreciate if you could validate our assessments by ticking in the respective boxes. In case you don't agree with the stated impact/rational, please state there your reasons.

Qualitative Cost and Benefit Analysis - Regulated firms

| Costs / Benefits | Assessed Impact | Rationale | Validation/ Comments | Rejection/ Comments |
|------------------------------|-----------------|---|----------------------|---------------------|
| Costs | Lower | | | |
| One-off | Slightly higher | | | |
| Human resources | | | | |
| New staff | = | No additional staff needed to comply with the new legal provisions | | |
| Trainings for existing staff | =+ | Due to the amendments in CPC, there might be the need to spend some time to acknowledge them. | | |
| Infrastructure | = | No additional costs on infrastructure | | |
| On going | Lower | | | |
| Human resources | = | | | |
| Expenses | | | | |
| Procedural | - | Under the art. 525 the creditor should pay for each procedure (when required by the law) and will be reimbursed at the end of the process by the proceedings of the sale. Given the low rate of successful auctions and the low price that the bank is very often forced to liquidate the property, in the end of the process it might happen that the bank is not able to recover all the payables. The amendment of art.525 on expenses by adding- the creditor will pay only for the initial fee, is expected to reduce the number of appeals by the debtors and reduce the expenses paid. | | |
| Finalization of the process | - | The rate of success is expected to rise | | |
| "Purchase" costs | - | More transparent and objective selecting rules and procedures for the appraisers would end in more realistic market value for the foreclosed immovable, diminishing thus banks' losses from exchanging the good for the loan within auction procedures and re-selling them for a lower price. | | |

| | | | | |
|--|---------------------------------|--|--|--|
| Tax on income (sale) | + | The decrease in the loss as explained above would increase the taxable income. | | |
| Benefits | Higher | | | |
| Additional loans – immovable property backed | + | The more rapid recovery of bad debts would give the possibility to re-place those sources in additional loans. Furthermore, banks would be more willing to enter into mortgage-backed transactions. | | |
| Cost saving / + revenues | + | By increasing effectiveness and fairness in the procedures more third parties will be willing to enter in the auction and bid to purchase the immovable property, accordingly banks will not be obliged to take the property in exchange of the loan | | |
| Equity relief | = | | | |
| Total impact | Less costs more benefits | A more effective foreclosure process will generate direct and indirect benefits. | | |

Legend:

- + increase
- decrease
- = no effect

5. Detailed Analytical Approach

The questions in this questionnaire refer to values at the end of 2006 and 2007 or to shares of the collateral backed loans and the foreclosure procedures for the period of 2006 and 2007.

5.1. General Information

Question 1. Please state the stock of loans backed by mortgages in your bank balance sheet (in million Lek):

- as of December 2006
- as of December 2007

Question 2. Out of the above mentioned category, please state the share (%) of doubtful loans and lost loans (Bank of Albania's categorization of loans), in your bank:

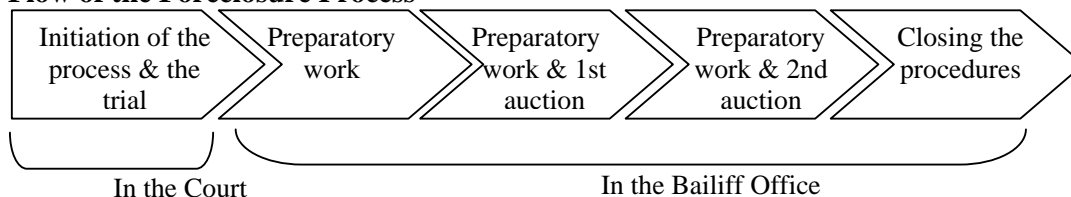
- as of December 2006
- as of December 2007

Question 3. Out of the above mentioned category, please state the share (%) of the loans in your bank that were under foreclosure process:

- as of December 2006
- as of December 2007

5.2 Analysis on Additional Costs and Time on Non-Accepted Proposals by Ministry of Justice

Flow of the Foreclosure Process²



Question 1. According to your experience, in average how much time is spent for the procedures in the Court? _____ days

Question 2. According to your experience, in average how much time is spent for the foreclosure procedures, in days?

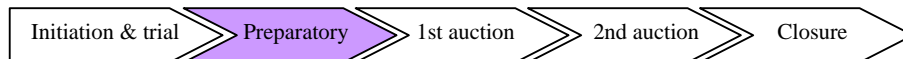
In the Bailiff Office

- I. For initial preparatory work _____
- II. For preparatory work for the first auction and the first auction _____
- III. For preparatory work for the second auction and the second auction _____
- IV. For closing the process _____

In the Bailiff in the Bailiff Office

- I. Preparatory work (articles 510 – 526)
- II. Preparatory work for the first auction and the first auction (articles 560 – 572, 578)
- III. Preparatory work and the second auction (articles 577)
- IV. Closing the process (articles 573 – 576, 579, 580)

I. Preparatory work



1. PWG has suggested that the execution order to be issued in two copies (or to be identified an alternative to deal with the cases when the collateral is located in more than one district) (article 513).

MoJ agrees with the problem identified, but the solution will be further discussed internally.

Question 3. In average during the last two years, what is the share of the loans under foreclosure in your banks that is affected by this amendment (collateral located in more than 1 district)? _____%

2. PWG has suggested that for the execution of the executive titles the creditor should prepare the file containing: The request for execution, the executive title, the executive order, the receipt of paid tax. If the bailiff considers the file is not adequately complied the creditor has 5 days to fill in the file correctly. The request for execution is considered as registered from the date presented in the bailiff office. The bailiff should execute the executive order within **10** days from the submission of the request. Court orders on masen e sigurimit te padise / charge of securing the lawsuit and the penalties issued by the court are executed within **3** days from the day of announcement. (article 515).

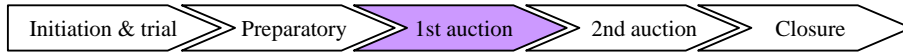
*MoJ has suggested that the bailiff should execute the executive order within **15** days and Court orders on masen e sigurimit te padise / charge of securing the lawsuit and the penalties issued by the court are executed within 5 days from the day of announcement.*

² A more detailed description of the foreclosure process is presented in Annex 2.



Question 4. According to your experience, could there be any negative implications of this proposal?

II. Preparatory work for the first auction and the first auction



Question 5. In average, what is the share of the loans under foreclosure in your banks that are ended (bidder paying the price) during the first auction? _____%

3. PWG has suggested that if the debtor and the creditor do not reach an agreement, the bailiff officer has to determine within 15 days the value of the property based on the expertise act presented by a *licensed* expert based **forced sale price** on the, in the moment of seizure.
 The bailiff should notify the debtor and the creditor on the appraised value within 10 days from the appraisal process. Against the value both parties might appeal (article 564).
MoJ has suggested that the appraisal's act to be based on the **market value**.

Question 6.1 According to your experience, which are the rationale and costs and benefits of using the forced sale price as reference price?

Rationale

Costs / Negative implications

Benefits / Positive implications

| | |
|-------------------------|-------------------------|
| ----- ----- ----- | ----- ----- ----- |
|-------------------------|-------------------------|

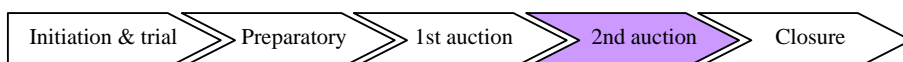
Question 6.2 According to your experience, which are the costs and benefits of using the market price as reference price?

Costs / Negative implications

Benefits / Positive implications

| | |
|-------------------------|-------------------------|
| ----- ----- ----- | ----- ----- ----- |
|-------------------------|-------------------------|

III. Preparatory work and the second auction



Question 7. In average, what was the share of the loans under foreclosure during the last two years in your bank that are ended (bidder paying the price) during the second auction? _____%



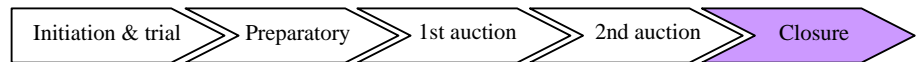
4. PWG has suggested that if in the first auction no bidder has offered a higher price than the initial price, or there has been no bidder, the sale continues with a second auction. The bailiff officer within 10days from the first auction determines the price, which is 20% lower than the initial price. The second auction should start not later then 15 days after the price is set.

Within **30 days** from the payment of the price from the buyer or from the acceptance of the property form the bank, the bailiff places the property under the possession of the buyer / creditor (article 577).

MoJ agrees with the problem identified, but the solution will be further discussed internally.

Question 8. According to your experience, which are the main negative implications of not having a specified time period for the transfer of possession from the debtor to the buyer / creditor?

IV. Closing the process



Question 9. In average, what is the share of the loans under foreclosure (in %) that your bank had to take the possession in exchange of the debtor’s liability?

Question10. In average, what is the share of loans for which the price in the second auction (the value of taking the property in possession) is:

1. Lower than the value of amount to be recovered from debtor? _____ %
2. Higher than the value of amount to be recovered from debtor? _____ %

Question 11. What is the average share of loans for which the re-selling mortgage price (by the banks) was lower than the price set for the second auction? _____ %

Question 12. What is the share of loans under foreclosure that your bank decided not to take the property in exchange of the debtor’s liability? _____ %

Annex 1.

| Nr. | Current Civil Procedure Code | PWG Alternative |
|-----|---|--|
| 1 | <p><u>Article 141</u> Notification to institutions, enterprises and other legal persons is made by means of delivering the copy to the office of the chief executive officer and to the persons responsible for receiving acts. Notification to non-state legal persons is made to their headquarters by means of delivering the copy of the act to the representative or person responsible to receive notification and in their absence to another person who works in those headquarters of that legal person.</p> | <p><u>Article 141</u> The article 141 is changed as follows: The notification process for the legal persons is the same as for the private persons (art.133). The last sentence of article 133 is changed as follows: The notification is posted in district court, district commune or birthplace or last known location</p> |
| 2 | <p><u>Article 144</u> The court may order by decision also other means of notification than those stipulated by the law such as by a telegram, facsimile, when the reception is confirmed in writing, by a written notice delivered by hand and other means which guarantee a regular notification, when required by special circumstances or by the necessity of a fast notification.</p> | <p>Following the article 144 is added the article 144/a: “The rules in this chapter on notifications are applied by the public and private Bailiff Service.”</p> |
| 3 | <p><u>Article 511</u> The executive title is executed on the request of the creditor. For this purpose the order of execution is issued which is given :</p> <ul style="list-style-type: none"> a. by the court which has taken the decision in cases stipulated in letters a and b of the preceding article; b. by the Court of Appeals with regard to decisions by courts of foreign countries and of foreign arbitration courts which have been given implementation power in conformity with the provisions of this Code; c. by the court of the place where decision has been issued in cases stipulated in letter ç of the preceding article; ç. by the court of the place where it has been determined to make the execution in cases stipulated in letters d, dh and e. | <p><u>Article 511</u> The first paragraph is changed as follows: “For this purpose the executive title is issued within 5 days from the date of the creditor’s, which is given:” The last paragraph is changed as follows: “For the sigurimin e padise and the fines written by the court are not issued executive orders, which are executed directly from the bailiff office, after the notification of the decision.”</p> |
| 4 | <p><u>Article 513</u> Execution order for separate assets and persons The execution order is issued in only one copy. When separate properties must be handed over or when the execution title has been issued to the benefit or against several persons separate execution order may be issued making a note as which part of the title must be executed for each execution order.</p> | <p><u>Article 513</u> The first sentence is changed as follows: “The execution order is issued in two copies.”</p> |
| 5 | <p><u>Article 515</u> Commencement of execution The execution title is executed by the bailiff on request by the creditor as well as by the prosecutor in cases when he has sued.</p> | <p><u>Article 515</u> For the execution of the executive titles the creditor should prepare the file containing: The request for execution, the executive title, the executive order, the receipt of paid tax, if necessary the act of procurement. If the bailiff considers the file is not adequately complied the creditor has 5 days to fill in the file correctly. The request for execution is considered as registered from the date presented in the bailiff office. The bailiff should execute the executive order within 15 days from the submission of the request.</p> |

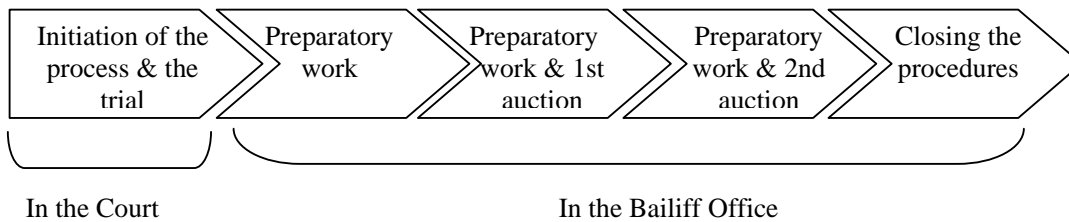
| Nr. | Current Civil Procedure Code | PWG Alternative |
|-----|--|---|
| | | <p>Court orders on masen e sigurimit te padise / charge of securing the lawsuit and the penalties issued by the court are executed within 5 days from the day of announcement. The tax for the execution process is not prepaid in the cases defined by the law.</p> |
| 6 | <p><u>Article 517</u> The voluntary execution</p> <p>At the start of the execution, the bailiff sends to the debtor a notice to execute voluntarily the obligation contained in the execution order designating for this a term of 5 days when its subject is salary or obligation for sustenance and of 10 days in all other cases. On request by the debtor, the first level court of the execution place, in special cases, taking into consideration other circumstances of the case may postpone the term of execution of the obligation in cash or may divide such an obligation in installments. The decision is given in court session, after the parties have been notified and a special appeal may be made against such decision.</p> | <p><u>Article 517</u></p> <p>In the second paragraph is added:</p> <p>“Upon the debtor’s request and after the creditor is expressed the court might postpone the time of the payment”</p> <p>The last sentence is changed as follows: “Against the decision parties might appeal.”</p> |
| 7 | <p><u>Article 522</u> The execution if the debtor’s address in not known</p> <p>When the residence of the debtor is not known, the court of the district of the place of execution, on request by the bailiff, after being directly clarified on this circumstance, nominates a representative of the debtor.</p> | <p>In the article 522 after the works “...on this circumstance...” is added “...within 10 days...”.</p> |
| 8 | <p>Article 525 Execution expenses</p> <p>The costs incurred for the execution of each action are initially paid by the creditor and then are withheld from the ensuing amount and returned to the creditor.</p> | <p>A paragraph is added at the end of article 525, as follows: “The creditor has to pay only for the initial fees of the procedures”</p> |
| 9 | <p>Article 528 The sequester order on a different property</p> <p>On request by the debtor, seizure may be placed also on another property other than the one indicated by the creditor when the bailiff estimates that it fulfils the request of the creditor.</p> | <p>At the end of article 528 is added, as follows: “...apart the case when both parties with an act have defined the wealth (properties) that will secure the claim in which execution is requested.”</p> |
| 10 | <p><u>Article 560</u> The sequester order</p> <p>The execution of the decision of the court or of other executive titles on immovable assets of the debtor is made by placing seizure on them. Seizure is placed by its registration in the office of the register of immovable property of the act of the bailiff in which are noted the kind, nature and at least three borders of the immovable asset, its location as well as the mortgages and real rights which may be held on it. A copy of the act of the bailiff is communicated to the debtor bindingly.</p> | <p>In the second paragraph of the article 560 is added a sentence, as follows:</p> <p>“The act issued by the bailiff is registered by the Immovable Property Registry Office within 10 days after it has arrived.</p> <p>The last sentence of the article 560 is changed as follows: “A copy of the registry is forwarded to the debtor.”</p> |
| 11 | Article 564 | Article 564 |

| Nr. | Current Civil Procedure Code | PWG Alternative |
|-----|---|---|
| | <p>Valuation of the property</p> <p>The seized immovable asset is appraised by the bailiff on basis of the value registered in the registers of immovable property or of the financial organ and in absence of such registration by experts.</p> <p>When the debtor or any other person having interest claims a higher value of the asset in comparison with the one existing in the registers of immovable property or of the financial the bailiff performs an other appraising process with an expert.</p> | <p>Valuation of the property</p> <p>The article 564 is changed as follow:</p> <p>“If the debtor and the creditor do not reach an agreement, the bailiff officer determines within 15 days the value of the property based on the expertise act presented by a <i>licensed</i> expert based on the market value, in the moment of seizure. The bailiff should notify the debtor and the creditor on the appraised value within 10 days from the appraisal process. Against the value both parties might appeal.”</p> |
| 12 | <p><u>Article 567</u> Auction procedures</p> <p>After placing the seizure the bailiff send to the debtor a notice that the asset shall be sold if he does not fulfill his obligation within 10 days from the notification.</p> <p>On the expiry of the above term the bailiff announces the sale of the asset by auction.</p> | <p>The article 567 To be abrogated</p> |
| 13 | <p>Article 569 The premises for the auction</p> <p>The auction of the immovable property is held in the office of the bailiff. It continues for 15 days and ends at the end of the official working hours of the last day which is indicates in the announcement for the sale by auction.</p> | <p>In the article 569 after the works “...in the bailiff office...” is added “...in the lodgment of the immovable property or in any other appropriate public place...”</p> |
| 14 | <p><u>Article 573</u> Notification of the winner</p> <p>At the end of the auction, the bailiff announces the winner. Buyer is the bidder who has given the highest price.</p> <p>Ownership to the asset passes on to the buyer only after he has paid the whole price, deducting from it the amount left as guarantee.</p> <p>The guarantees left by other persons who participated at the auction are returned to them immediately after the end of the auction.</p> <p>Detailed rules on the holding of auction are determined by a separate law.</p> | <p>The last paragraph of the article 573 is changed as follows: “The specific rules on the auction procedures are defined / set with a directive of the Council of Ministers.”</p> |
| 15 | <p><u>Article 574</u> Time limit to pay the price</p> <p>The buyer must pay the price of the asset within 5 days from the end of the auction.</p> <p>On payment of the price of the asset and the tax on the acts of sale of the asset the bailiff issues the decision for the transfer of the asset in ownership of the buyer. From that day the buyer gains all the rights that the debtor had on the asset.</p> | <p>In the first paragraph of the article 574, words “...5 days...” change in “...15 days...”</p> |
| 16 | <p><u>Article 575</u> Taking the possession</p> <p>The buyer is given possession of the asset by the bailiff officer against the debtor or the person to whom it is left in custody as well as against any other person who has the asset in possession. The third person may be defended against the removal of the asset from possession only by means of the suit on recognizing the right of ownership on the asset.</p> | <p>In the first sentence of the article 575, after the words “...the bailiff officer ...” is added “...within 10 days...”</p> |
| 7 | <p><u>Article 577</u></p> | <p><u>Article 577</u></p> |



| Nr. | Current Civil Procedure Code | PWG Alternative |
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| | <p>Repetition of the auction</p> <p>When in the first auction no additional amount above the price at which sale started is offered, or there is no bidder, a new auction for the sale of the asset is held, applying the rules for the first auction. The new auction is held after three months have passed from the end of the first auction and on basis of a new price not lower than 20% of the first price designated by the bailiff in agreement with the debtor. When the asset is not sold even by the second auction the bailiff suggests to the creditor to take the asset against the claim/loan at the price designated for the new auction and when he refuses raises the seizure on the asset.</p> <p>When the creditors that request to take the asset against credit are several the bailiff declares as buyer the creditor who within three days from the suggestion gives a higher price than the one designated for the new auction.</p> | <p>The article 577 is changed as follows:</p> <p>If in the first auction no bidder has offered a higher price than the initial price, or there has been no bidder the sale continues with a second auction. The bailiff officer within 10days from the first auction determines the price, which is <u>20%</u> lower than the initial price. The second auction should start not later then 15 days after the price is set.</p> <p>Within 30 days from the payment of the price from the buyer or from the acceptance of the property form the bank, the bailiff places the property under the possession of the buyer / creditor.</p> |

Annex 2. Flow of the Foreclosure Process



Grouping of the procedures

A. In the court

1. The creditor files the request to obtain the executive title;
2. The court secretary registers the request;
3. The judge is selected;
- 4 - 5. The judge sets the date of the trial and performs other preparatory acts (such notifications etc);
6. The trial;
7. Zbardhja of the ruling;
8. The secretariat records the decision for the executive title;
9. The decision is given to the party that filed the request.

B. In the Bailiff in the Bailiff Office

- I. Preparatory work
- II. Preparatory work for the first auction and the first auction
- III. Preparatory work and the second auction
- IV. Closing the process

I. Preparatory work

- 10 -12. The creditor prepares and delivers the file in Bailiff Office, pays the tax and requires the commencement of the execution process;
13. The secretary registers the request;
14. The bailiff officer is selected;
15. The bailiff officer reviews the file;
16. The bailiff officer sends a request for voluntary execution;
17. The bailiff officer starts the forced execution;
- 18-22. The bailiff officer issues the sequester order and notifies the commercial banks; the Regional Directory of Transport; the Tax office; the Immovable Property Registry Office;
23. The bailiff officer issues the conservative sequester order on the exact property that is mortgaged;
24. The RPR office records in the registry, in the file of the debtor and/or warrantor, the sequester order;
25. The sequester order information from RPR is collected from the bailiff officer or the creditor;

II. Preparatory work for the first auction and the first auction

- 26 - 28. The bailiff appraises the property based on the value register or hires an expert. The expert deposit in the Bailiff office the expertise on the property
- 29 – 30. The bailiff notifies both the debtor and the creditor on the settled value and announces the sale
31. Bidders pay the guaranty for the auction
32. First Auction is held

III. Preparatory work and the second auction

33. The bailiff set the price and the date of the second auction
34. Second auction is held



IV. Closing the process

35. The ownership is transferred only after is paid the whole price, less the initial deposit- guaranty.

36- 37. After the payment of the price and the taxes on sale the bailiff officer announces / delivers the transfer of ownership and the guaranties deposited by the other persons are turned back

38. If the sale price is higher than the debt then the creditor has to return back to the debtor the excess amount, after subtracting the expenses for the auction and other incurred expenses.

39. If the property is not sold, the bailiff proposes to the creditor that against the loan to take possession on the property with the new price. If the creditor refuses the sequester order on the property if removed.