

**LAW No. 05/L-118**

**ON AMENDING AND SUPPLEMENTING THE LAW No. 04/L-139 ON ENFORCEMENT PROCEDURE**

**The Assembly of the Republic of Kosovo,**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

**LAW ON AMENDING AND SUPPLEMENTING THE LAW NO. 04/L-139 ON ENFORCEMENT PROCEDURE**

**Article 1**

**Purpose**

The purpose of this Law is amending and supplementing the Law No. 04/L-139 on Enforcement Procedure (Official Gazette of the Republic of Kosovo No. 3, 31.01.2013).

**Article 2**

Article 2 of the basic Law paragraph 1., after sub-paragraph 1.19., a new sub-paragraph 1.20. shall be added with the following text:

1.20. “ **Bank Account Register**” means the infrastructure related to the database in accordance to the relevant act of the Central Bank.

**Article 3**

Article 3 of the basic Law after paragraph 5, a new paragraph 6. shall be added with the following text:

6. Against conclusion as per paragraph 5. of Article 3 of the Law, no legal remedy is allowed.

**Article 4**

1. Article 13 of the basic Law, paragraph 1., after the word “creditor” shall be added the following sentence “except costs related to efficiency of the enforcement which may be determined by an agreement between private enforcement agent and the creditor”.

2. Article 13 of the basic Law, after paragraph 1., a new paragraph 1a. shall be added with the following text:

1a. Fees for the administration of the case and other fees that are to be paid by the debtor shall be determined by a sub-legal act issued by the Minister, whereas the efficiency fee of the enforcement is a fee, which is paid by the creditor after completion

of the enforcement and only with respect to the value enforced and its amount shall be determined by an agreement between the creditor and the private enforcement agent within the maximum and minimum limit determined by a sub-legal act of the Minister.

3. Article 13 of the basic Law, paragraph 2., after the word “article”, the following phrase shall be added “except costs related with the efficiency of the enforcement”.

4. Article 13 of the basic Law, paragraph 4. shall be amended and supplemented with the following text:

4 Except the efficiency fee of the enforcement, which is determined by agreement between private enforcement agent and the creditor, other initial fees are to be paid by the creditor, and after completion of the procedure they are to be charged to the debtor.

5. Article 13 of the basic law, after paragraph 6. a new paragraph 7. shall be added with the following text:

7. Notwithstanding paragraph 1., 2., 3. and 4. of this Article the body which imposes misdemeanor sanction with a fine, the efficiency fee is determined as a fixed fee and is attributable to the debtor.

#### **Article 5**

1. Article 22 of the basic Law, paragraph 1., sub-paragraph 1.4., after the word “mediation” the wording “after approval of the Court” is deleted.

2. Article 22 of the basic Law, paragraph 1., after sub-paragraph 1.7., a new sub-paragraph 1.7a is added with the following text:

1.7a. Pledge contract registered in the official pledge register.

#### **Article 6**

Article 43 of the basic Law, paragraph 3., after the words “bank account” there are added the following wording: “the bank shall make calculations at the expense of the debtor. In cases when the calculation is made by the bank, the enforcement body is obliged to mark in the writ of enforcement the degree of exact interest, the precise guidelines for calculating the time of the interest, and all other details necessary for the banks to enable calculation interest correctly. If in the writ of enforcement there are insufficient information, unclear or incomplete regarding the calculation of interest, the enforcement body is obliged to meet the writ of enforcement at the request of banks”.

#### **Article 7**

Article 47 of the basic Law, paragraph 5., the words “after it becomes final” are replaced with the words: “in compliance with Article 19, paragraph 1. of this Law”.

### **Article 8**

Article 52 of the basic Law shall be deleted.

### **Article 9**

Article 69 of the basic Law, paragraphs 2. and 3. are reworded with the following text:

2. An objection shall be submitted in written to the enforcement body which has allowed such enforcement.

3. When an objection is submitted to a private enforcement agent, such enforcement agent is obliged, within three (3) days from the receipt of reply to objection or expiry of deadline of reply, submit the case to the Competent Court.

### **Article 10**

Article 70 of the basic Law, the term "Judge" is replaced with the term "enforcement body".

### **Article 11**

1. Article 72 of the basic Law, paragraph 1. shall be deleted.

2. Article 72 of the basic Law, paragraph 2. shall be reworded with the following text:

2. Enforcement body shall deliver to respondent and all other parties in enforcement procedure objections and supported evidence within three (3) days from a day of receipt of an objection.

### **Article 12**

1. Article 73 of the basic Law, after paragraph 1., a new paragraph 1a. shall be added with the following text:

1a. The Court shall decide on the objection within a deadline of thirty (30) days from the date of receipt of objection.

2. Article 73 of the basic Law, after paragraph 3., a new paragraph 4. is added with the following text:

4. In case of approval of objection, and depending on circumstances of the case, the Court completes the enforcement in entirety or partially, and shall annul any actions taken.

### **Article 13**

Article 79 of the basic Law, paragraph 1. the word "delivery" shall be replaced with the word "complaint", while in paragraph 2. the word "request" shall be replaced with the word "complaint".

#### **Article 14**

Article 85 of the basic Law, paragraph 1., after sub-paragraph 1.7., a new sub-paragraph 1.8. is added with the following text:

1.8. Income from social assistance.

#### **Article 15**

Article 100 of the basic Law is reworded with the following text:

#### **Article 100** **Public Sale Session**

1. Sequestered items can be sold in a public sale session at a lower price than the one assigned, but not at a price lower than fifty per cent (50%) of the value assigned during the registration and evaluation of movable items of the debtor, respectively in the deadline assigned by the enforcement body for their sale through direct settlement.

2. Public sale sessions are held within thirty (30) days from the date of sequestration.

3. If such sequestered items are not sold in the sale session, the creditor may require transfer of items to his ownership, for partial or full coverage of credit at the assigned price of such items, within a deadline of fifteen (15) days from the date of public sale.

4. The abovementioned provisions of this Article shall apply mutatis mutandis also for the sale of sequestered items through a direct settlement.

#### **Article 16**

Article 101 of the basic Law shall be deleted.

#### **Article 17**

Article 102 of the basic Law, paragraph 1., shall be reworded with the following text:

1. The enforcement body shall suspend the enforcement if there are no bidders, or if there is no proposal for sale through direct settlement, within the deadline of thirty (30) days, or if the creditor does not present a proposal for transfer of items possessed by the creditor, as per paragraph 3. of the Article 100 of the Law.

#### **Article 18**

1. Article 112 of the basic Law, paragraph 3. after the words "disability guarantee", the words "incomes based on social assistance" shall be deleted.

2. Article 112 of the basic law, after paragraph 3. a new paragraph 3a. shall be added with the following text:

3a. There is no exemption from execution of the debtor's income based on social assistance, if they are pledged by the will of the debtor under the agreement.

### **Article 19**

Article 155 of the basic Law is reworded with the following text:

### **Article 155**

#### **Sequestration and enforcement on the bank account through Bank Account Registry**

1. The enforcement authority shall submit to the commercial banks an enforcement decision or order on the bank account through the electronic system of the Bank Account Holder Registry.

2. Commercial banks are obliged to freeze the bank accounts of the debtor within sixty (60) minutes from the moment of receipt of the enforcement decision or order. Commercial bank shall, within one hundred and twenty (120) minutes notify the enforcement body on freezing of the bank account as per the enforcement decision or order.

3. The enforcement agent shall submit an order for transfer of funds within twenty four (24) hours after receipt of notification from the banks on freezing of the bank account. If the debtor has sufficient funds in the bank account, the bank is obliged to authorize the transfer of debtor funds within one hundred eighty (180) minutes following the receipt of enforcement body decision or order, and within sixty (60) minutes following the transfer of funds shall notify the enforcement agent that the transfer of funds has been carried out, providing the time of receipt of the enforcement body decision, the amount of credit transfer, the account number/s from which funds are withdrawn, the name of the holder, the account number and the bank where the transfer was made. The aforementioned time limit is calculated, and the banks are obliged to comply with it, only during the regular working hours of banks work, implying that if the above mentioned term, scheduled for transfer from the time of receipt of the order, passes regular work schedule of banks, then the calculation of the deadline for transfer is interrupted at the time of completion of the regular working hours of banks and the remaining time continues to flow into the next day of the banks work.

4. In cases when the bank freezes the debtor's bank account, it prevents any withdrawal of funds, by doing so it prevents any withdrawal of funds, for any purpose or in any form, except in cases when the bank has an order of priority over the account funds, until the bank covers for the whole amount stated in the decision of the enforcement authority, or until the enforcement authority order is withdrawn. Such freezing of accounts shall not prohibit the deposit of funds into the account. Upon receipt of the enforcement order, the debtor mentioned in the order shall not be permitted to open other accounts in the bank until such order is enforced, or until the enforcement authority order on account freezing is withdrawn. The bank shall not enforce any order of debtor until he has fully paid the credit amount to the enforcement authority or until receipt of notification by the enforcement authority on order withdrawal.

5. The enforcement authority shall, through the electronic system of Bank Account Holders Registry, notify the bank on the unfreezing of the debtor's accounts upon payment in full of the credit or after the completion of the enforcement process, within one hundred and twenty (120) minutes from the moment of notification that the credit

payment has been settled.

6. The bank is obliged to unfreeze the already frozen debtor's accounts within sixty (60) minutes following the receipt of notification referred to in paragraph 5. of this Article.

7. Upon the request by the enforcement authority, the bank is obliged to provide explanations and documents proving that the bank has respected the transfer decision and all other decisions of the enforcement authority.

8. If there are circumstances that make it impossible delivery of the enforcement order or notifications through electronic system of the Banking Account Registry in the bank, then the enforcement authority may deliver the enforcement order or notifications by other means that make possible their delivery.

### **Article 20**

Article 161 of the basic Law shall be reworded with the following text:

1. If the debtor has monetary funds in several accounts in one bank or other accounts in more banks, the enforcement body shall impose by decision the enforcement on all bank accounts of the debtor, and shall conduct enforcement by sequestration of such funds.

2. The enforcement body shall conduct enforcement by sequestration of funds in bank accounts of the debtor in all banks at the same time and may choose that accounts in various banks to be charged proportionally to the general value of the debtor accounts held in such banks.

### **Article 21**

1. Article 220 of the basic Law, the word "determine" shall be replaced with the words "have previously determined".

2. Article 220 of the basic Law, after paragraph 1., a new paragraph 1a. shall be added with the following text:

1a. In case of a dispute over the value of real estate as determined by parties before enforcement procedure, the enforcement body may assign a relevant expert to appraise the real estate value.

### **Article 22**

Article 234 of the basic Law is reworded with the following text:

1. In the first session of the public sale, real estate cannot be sold at a price that is lower than fifty percent (50%) of the value of real estate as appraised. The starting offers for the first session that are lower than fifty percent (50%) of the appraised value will not be reviewed.

2. In case the real estate is not sold in the first session of the public sale, the enforcement body shall designate a second session of the public sale within a time frame of fifteen (15) to thirty (30) days. At this session, real estate shall not be sold at a value lower than one third (1/3) of the value of real estate as appraised.

3. In case real estate is not sold in the second auction, the enforcement body shall, by proposal of creditor, render a decision to hand over the real estate to the ownership of creditor, in which case the claim against the debtor is considered fully covered.

4. In case there are no persons with the right of pre-emption or contractual right, than the person who according to this law has right of settlement with priority of his credit from selling price, shall acquire the right of pre-emption of the real estate at the price reached in the second session.

### **Article 23**

Article 235 of the basic Law is reworded with the following text:

1. In case the parties before the commencement of enforcement procedure have reached an agreement with the enforcement authority, that the real estate should be sold for a price lower than that provided under paragraph 1. of Article 22 of this Law, then the real estate can be sold with that price even in the first session. This agreement shall be valid only if in the enforcement procedure, the persons with registered rights in the public record of the real estate do not participate before the registration of the right of the claimant of the enforcement.

2. The lowest price by which the real estate can be sold according to the provision of paragraph 1. of this Article cannot be lower than one third (1/3) of the determined value.

3. Parties and persons secured with pledge can agree through the statements provided in the official records that the real estate can be sold at a lower price than that mentioned in paragraph 1. of Article 22 of this Law.

4. Provisions of paragraph 1. and 2. of this Article shall apply accordingly even in the case when the real estate is sold through direct agreement.

### **Article 24**

Article 242 of the basic Law, paragraph 4. is reworded as follows:

4. Decision or order under paragraph 1. of Article 242 of this Law is submitted to the parties, in accordance with the provisions of the Law on Contested Procedure.

### **Article 25**

Article 247 of the basic Law, paragraph 1., the word "third" shall be replaced with the word "second".

### **Article 26**

Article 248 of the basic Law, paragraph 1., the word "third", is replaced with the word "second".

### **Article 27**

Article 325 of the basic Law, paragraph 3. the words “disqualifying any private enforcement agent” shall be replaced with the words “excluding any private enforcement agent”.

### **Article 28**

Article 334 of the basic Law, paragraph 1., after the words “the register of private enforcement agents”, there shall be added the words “of the Ministry”.

### **Article 29**

1. Article 350 of the basic Law, paragraph 1., the word “at least” shall be deleted, while there shall be added the word “designated” before the word “bank”.

2. Article 350 of the basic Law, after the paragraph 1., a new paragraph 1a. is added with the following text:

1a. The designated bank account shall be solely used for:

1a.1. payment of creditors from the amounts collected in their behalf by the private enforcement agent as a result of enforcement activities;

1a.2. payment for costs of enforcement actions and efficiency of enforcement;

1a.3. payment to rectify any payment erroneously made to the designated bank account of the private enforcement agent, as registered in the private enforcement register for the designated bank account;

1a.4. payment to the debtor for the amount outstanding upon full payment of creditor and respective fees for the private enforcement agent.

3. Article 350 of the basic Law, paragraph 2., the word “entrusted” shall be replaced with the word “paid”.

4. Article 350 of the basic Law, paragraph 3. shall be reworded with the following text:

3. The private enforcement agent shall be exclusively authorized to have access and to authorize payments from the designated bank account. The private enforcement agent may authorize another person working under his responsibility, however the private enforcement agent shall be responsible for all transactions to and from his designated bank account. The private enforcement agent shall keep all entries to the designated bank account and all withdrawals from the designated bank account, including amounts of such transactions, dates of such transactions, numbers of cases for which transactions are made, and full names of each depositor and receiver of payments from the designated bank account.

5. Article 350 of the basic Law, paragraph 4. shall be reworded with the following text:



4. The private enforcement agent shall immediately fulfil the deficit in the balance of the designated bank account and shall be liable with regard to such deficit.

6. Article 350 of the basic Law, paragraph 8., the words “may not be” shall be replaced with the words “cannot be”.

7. Article 350 of the basic Law, paragraph 9. shall be deleted.

8. Article 350 of the basic Law, paragraph 12., “number three (3)”, shall be replaced with “number ten (10)”.

### **Article 30**

1. Article 359 of the basic Law, paragraph 1., the words “inspectors of the Ministry,” shall be replaced with words “respective Unit for inspection within the Ministry”.

2. Article 359 of the basic Law, paragraph 2., the word “Ministry” shall be replaced with “Inspection unit”.

3. Article 359 of the basic Law, paragraph 3., the words “the authorized person of the Ministry” shall be replaced with words “the officers of the Inspection Unit”.

### **Article 31**

1. Article 399 of the basic Law, paragraph 2., sub-paragraph 2.2., after the word “business”, all remaining sentence shall be deleted.

2. Article 399 of the basic Law, after sub-paragraph 2.5., a new sub-paragraph 2.6. shall be added with the following text:

2.6. issue a sub-legal act on identification insignia for the private enforcement office and manner and placement of such insignia.

### **Article 32**

#### **Transitional provisions**

1. Within eighteen (18) months after the entry into force of this law, the Ministry of Justice will amend and supplement the Administrative Instruction on fees for rewards and compensation of the expenses for private enforcement agents.

2. Until the amendment and supplementation of Administrative Instruction provided in paragraph 1. of this Article, the provisions of the Administrative Instruction shall apply on fees for rewards and compensation of the expenses for private enforcement agents.

**Article 33**  
**Entry into force**

This Law shall enter into force fifteen (15) days upon its publication in the Official Gazette of the Republic of Kosovo.

**Law No. 05/L-118**  
**18 April 2017**

**Promulgated by Decree No.DL-025-2017, dated 04.05.2017, President of the Republic of Kosovo Hashim Thaçi**