

NEW RESTRICTIONS IN ENFORCEMENT PROCEEDINGS

INTRODUCTION

The seventh amendment to the Law on Enforcement Proceedings (**Law**) in the Federation of Bosnia and Herzegovina (**FBiH**) has been adopted and published in the Official Gazette of FBiH no. 46/16 on 15 June 2016. It entered into force the following day, i.e. 16 June 2016.

The amendments are related to:

- exemption from the enforcement of securities and shares owned by FBiH, its cantons, cities, and municipalities;
- setting the minimum threshold of the budget position of the FBiH and its cantons, cities, and municipalities for payments under the final and binding decisions;
- restriction of selling of real property without limitation of the lowest price at the third auction.

OVERVIEW OF THE AMENDMENTS

Exemption from enforcement

Under the latest amendment, the Law exempts the legal entities' shares and securities owned by FBiH, cantons, cities and municipalities from enforcement, which prevents the courts from continuing ongoing enforcement proceedings over such assets and prohibits initiation of new enforcement proceedings over such assets. Therefore, the enforcement proceedings initiated over aforementioned assets will be terminated, if the enforcement creditor does not change the asset to be enforced.

Budget planning for enforcement of court judgments

The amendment reintroduces an obligation for FBiH, cantons, cities and municipalities to plan into their budgets an amount of at least 0.3% of their total budget for their settlement through enforcement proceedings if final and binding court decisions have been issued against them. The similar provision was in force until 2012 when it was deleted from the law, and these governmental bodies were not obliged to plan into their budgets the positions for settlement of final and binding court decisions, preventing thousands of creditors from achieving the settlement of their claims due to the very extensive protection of the FBiH, cantons, cities and municipalities (exemption from enforcement now includes not only governmental authorities' real property and movables used for performance of their functions, but also their shares and securities).

Third public auction

Before the latest amendments to the Law, it was possible to sell the debtor's real property at its third public auction without any limitation on its minimum price compared to the

property's appraised value. The new amendment regulates that the sale of the property without limitation of the minimum price is allowed only with prior approval for such sale from the FBiH Tax Authority. If the FBiH Tax Authority declines to approve the sale, in that case, the FBiH Tax Authority has to provide to the court the real sale price of the property, for which the property can be sold at the third auction. It is still unclear which potential consequences can be expected in practice and what their extent might be (e.g. implementation mechanism of the third public auction, method of property value assessment, cost allocation, authorization to file a request, and so forth).

We will keep you posted on any upcoming legislative developments!

About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We have built our reputation on a combination of unrivalled local knowledge and strong international capability. We opened our first office in Vienna almost 60 years ago. Our team now brings together over 340 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region.

For more information about our services, please contact:



Jasmin Šarić

Attorney at Law in cooperation with
Wolf Theiss

jasmin.saric@lawoffice-saric.com

T: +387 33 953 463



Emina Zahirović

Associate

emina.zahirovic@wolftheiss.com

T: +387 33 953 452

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss d.o.o.
Zmaja od Bosne 7/III
71000 Sarajevo
Bosnia and Herzegovina
Tel.: +387 33 953 444
Fax: +387 33 953 445
www.wolftheiss.com