



Improvement of the Enforcement system in the Republic of Croatia
 Contract Number: 2010-01-23-010101
 Twinning Number: HR/10/IB/JH/04



THE EUROPEAN UNION'S 2010 PROGRAMME

Consortium: Spanish Ministry of Justice/Hungarian Ministry of Justice /Croatian Ministry of Justice/FIIAPP

ROUND TABLES REPORT

“Improvement of the Enforcement system in the Republic of Croatia”

**Organizing 4 regional round tables for at least 20 participants per round table
 (Representatives from stakeholders)**

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1. INTRODUCTION

The main objective of round tables was to verify previous information and to gather possible new inputs by means of discussion on solutions for improvement of cooperation between stakeholders participating in the enforcement system based on the outputs produced under activities 2.1.1 and 2.1.2.

The specific objectives of the assistance were to conduct four regional round tables where representatives from stakeholders have the chance to discuss possible ways to reinforce cooperation between stakeholders involved in the enforcement system, as well as solutions for improving communication and information exchange.

2. EXPERTS (STE)

Mr Ferenc Császti (Bailiff, Hungary)

Mr Javier L. Parra García (*Court Manager*, Spain)

Ms María Vanessa Untiedt Lecuona (*Court Manager*, Spain)

Mr Zoltán Várady (Bailiff, Hungary)

The technical assistance took place in the Ministry of Justice in Zagreb (four experts), in Rijeka and Split (Mr Javier Parra and Mr Zoltán Várady) and in Zagreb and Osijek (Mr Ferenc Császti and Mrs Vanessa Untiedt).

STEs have ensured the active participation of the attendees to four round tables, since their opinions and suggestions will be taken into account in order to prepare recommendations to improve coordination and communication mechanisms between stakeholders within the enforcement system according to the legal framework and their monitoring responsibilities.

3. ROUND TABLES METHODOLOGY

In order to facilitate the dialogue, the experts decided to implement the activity according the “*Round Table Workshops*” methodology¹.

This is a method for public participation or for groups of people who have an interest in a particular service or strategy. The Round-table Workshop method enables participants to make a full contribution to discussions on issues of shared concern and to generate ideas for action. This method works well when there is a relatively clear topic to be discussed.

¹ A flowchart of this methodology was given to the RTA



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Description:

a. Preparation

The experts drafted a questionnaire (see Annex 1) taking into account the conclusions of activities 2.1.1 and 2.1.2. The document was concluded with a call for priority proposals in order to improve the enforcement system.

The experts agreed on the same methodology to be followed for each round table and on using the same structure and questionnaire.

b. Implementation

A brief introduction was given by setting the context and aims of the event. After the introduction, the attendees were split into smaller groups of 4 – 6 stakeholders.

Each workshop had the same questionnaire as part of the strategy and should reach to a common position in relation to the questions and proposals. Round table discussions generated ideas, which were recorded on paper or tape. Each round table needed a convenor and a reporter.

Every effort was made to ensure that different and mixed stakeholders with influence and authority in local networks and organization participate in the workshops.

Experts provided technical information and case studies in order to generate new ideas and approaches.

c. Outcomes

Once the groups reached a common opinion, they appointed a speaker and a plenary meeting was carried out in order to share and debate responses and outcomes.

A summary of the proposals was produced and circulated for experts comment.

4. ROUND TABLES

4.1. Round table in Rijeka

Experts: **Mr. Javier Luis PARRA and Mr. Zoltan VARADY**



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Stakeholders

Stakeholders from several professions and bodies were invited as participants a month in advance. The invited participants were bailiffs, judges, court advisors, public notaries, lawyers, representatives of the Ministry of the Interior and representatives of FINA.

Questionnaire and methodology

According to the meeting which took place on Monday morning, the experts carried out the round tables applying the same documentation and methodology. Therefore it was used a normalized questionnaire elaborated by the experts and applied the same workshops and plenary system.

The process was monitored by two experts and people who could not speak English were helped by an interpreter.

In order to get active participation of the stakeholders a workshop methodology was implemented. The 21 attendees were split up in four smaller groups of 4 or 5 participants and they were invited to get a common position in relation to questions and proposals (questionnaire).

The last part of the round table was paid to present and debate the different group conclusions in a plenary session of one hour and a half.

Progress of the meeting

The round table was implemented with a total of 21 attendees and it was conducted in the auditorium of the City Hall of Rijeka.

Professional background of the participants: judges, court advisors, senior court advisors, public notaries, representatives of the Ministry of Finance, lawyers, representatives of FINA, representatives of the Ministry of the Interior. The following attendees were present²:

1. BrankoTerković, Public notary
2. Marina Sablić Dorčić, Public notary
3. Stevan Pejnović, Public notary
4. Jelena Mavrić, Senior Court advisor
5. Goran Ruso, Court advisor
6. Mihaela Kaligari, Court advisor
7. Luka Gluhak, Court advisor
8. Ivan Vučemil, Judge
9. Ksenija Dimec, Judge

²**IMPORTANT.** All the attendees expressed their wish to receive, by email, the project conclusions and recommendations.



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10. Laura Puljar Matić, Judge
11. Adriana Puž, Judge
12. Ines Kundić, Judge
13. Iva Polić Turčić, Judge
14. Martina Maršić, Judge
15. Ivica Deželić, Ministry of Finance
16. Vedran Kos, Ministry of Finance
17. Savin Vaić, Lawyer
18. Irina Gregov, FINA
19. Marin Glaser, FINA
20. Milan Cindrić, Ministry of the Interior
21. Ivica Vrbaslija, Ministry of the Interior

The following steps were taken:

- a. Introduction to the project and round table. Before starting the experts introduced themselves, the Hungarian expert made a short presentation of Hungarian enforcement system and stakeholders' communication. Besides, the Spanish experts put the attendees into context of the project and the activity.
- b. Division of the participants into four groups and internal debate.
- c. Plenary session and conclusions.

The round table took two hours and a half and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project.

The experts collected the conclusions delivered by the groups in written.

Round table conclusions and proposals

Participants were really actively involved in the methodology and activity contents. They collaborated with useful answers. They wrote down the improvements needed by the Croatian enforcement system and they made verbal summary of the discussion handled.

In general, the participants paid more attention to first set of questions (general questions) rather than those related to communication.

Summary of Conclusions:

1. - General questions:

- Problems with the internal organization of the courts and the system of evaluation of their work. Lack of specialization of judges and insufficient human resources involved in the enforcement procedure.
- Since the law is amended so often there is some legal uncertainty and possible lack of uniformity of court practices. Lack of accessibility to the case law.



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- There is a need for a centralized system (so called e-enforcement) and of central register of movable and immovable property.
- FINA represents a solution for faster enforcement proceedings in case of the enforcement over monetary assets. However some stakeholders pointed out an excessive formalism and insufficient familiarity with the matter by FINA's employees as well as a reluctance to accept interim measures.
- Court employees are not fully equipped. They need joint training programmes for all the stakeholders.
- Some stakeholders referred to certain problems in relation to the social awareness and sensitivity linked to enforcement activities. For instance, there is an Association for protection and assistance to victims of evictions 'Živi zid'.

2. - Questions related to communication:

- Communication by email would be more functional but it is not a secure way of communication. It is necessary to rely on e-mail encryption or electronic signature.
- The e-bulletin board and the e-predmet are useful tools as delivery costs are reduced and procedure is much faster.

3. Proposals

Participants were requested to suggest the three main improvements needed by the Croatian enforcement system. These are their proposals:

1. **Legal certainty.** There is a common position in order to create a reliable and quality legislation that will not constantly change.
2. **IT developments.** There is a widespread demand for implementing IT facilities into the enforcement procedures: computerisation, interoperability, secure electronic communications, central registers, centralized location for sale of real estate and, in general terms, so called e-enforcement.
3. **Organization.** Most of the participants agreed in relation to the need of more people for work on enforcement cases in courts and better organisation of work. Besides there is a need of more specialized training for all stakeholders and practitioners.
4. **EU legislation & EU MS good practices.** Implementation of good legislative provisions from EU countries in our system.

4.2. Round table in Zagreb



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Experts: **Mr. Ferenc Császti and Ms. Vanessa Untiedt**

Round table conclusions and proposals

A round table with 47 participants was held in the Ministry of Justice in Zagreb. Round table was attended by the following participants: 18 Judges, 10 Court Advisors, 3 Presidents of the Court, 3 Senior Court Advisors, 2 Public Notaries, 2 representatives of the Ministry of Finance, 2 Lawyers, 3 representatives of FINA, 2 representatives of the Ministry of the Interior, 2 representatives of the Ministry of Justice.

The attendees were split in ten groups of 3, 4 or 5 participants. They had the opportunity to discuss the enforcement system during one hour and a half.

Participants were really enthusiastic and they collaborated with useful answers. They wrote down the improvements needed by the Croatian enforcement system and they made verbal summary of the discussion handled.

The round table was successful. Many participants from different professional backgrounds, well elaborated conclusions and very participative guests made the activity dynamic and beneficial for the project.

Some of the participants answered the general topics that were delivered at the beginning of the round table. Some of the conclusions were the following:

1. - General questions:

- The enforcement is not a job for the court, but for the public bailiffs.
- Lack of specialization of judges and insufficient number of stakeholders involved in the enforcement procedure.
- Lack of uniformity of court practices.
- Every judge has also other urgent files.
- Insufficient assistance of the Ministry of the Interior.
- FINA represents a solution for faster enforcement proceedings in case of the enforcement over monetary assets.
- Court employees are not fully equipped or motivated.
- Enforcement proceedings should be simplified.

2. - Questions related to communication:

- Communication by email is not a secure way of communication. It is necessary to have an e-mail encryption.
- The e-bulletin board and the e-predmet are useful tools since the delivery costs are reduced and the procedure is much faster.
- Paper communication is out-dated. Electronic signature should be empowered.



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3. - Participants were requested to suggest the three main improvements needed by the Croatian enforcement system. These are their **proposals**:

- Introduction of public bailiffs with specific knowledge.
- Small claims procedures (up to a certain amount), should be sent out of the court and it should be specified by law who would be in charge of those case files.
- Greater powers to FINA in the process of the enforcement over the monetary assets should be given along with the proper training of FINA's staff who will implement such enforcement.
- Communication with FINA is very complex; it should be simplified.
- The present system of legal remedies leads to less efficient implementation of the enforcement procedure and delays the proceedings. Legal remedies and grounds for appeals should be reduced.
- Judges do not have access to all necessary registers. Access to data on the debtors' property by creating an electronic database, and electronic communication between the enforcement agents.
- Larger number of judges and more experienced court advisers, until the backlog is reduced.
- Improved training of the court bailiffs, the improvement of the service of the court bailiffs in order to have faster procedure. Competences of the court bailiffs should be strengthened.
- The Enforcement Act should not be amended so frequently without taking into account the needs of judicial practice and experience from the court.
- Every court should have access to e-bulletin board and other necessary equipment because now e-spis (e-file) is not efficient.
- Communication of courts and Ministry of the Interior, FINA, Tax Administration and other relevant institution should be electronic.
- In order to solve delivery problems IT application should be improved.
- Costs of the enforcement procedure should be limited.
- An electronic service of motions for the enforcement to notaries public should be centralized within Croatian Chamber of Notaries.
- Searching data in all register should be possible by OIB number.
- Networking and availability of all courts and registers - OIB (Identification personal number).

Workshop conclusions:

1. - PROCEEDINGS ISSUES

- There are too many amendments to the Enforcement Act and no transition between the changes; judges need to process each case according to the Law relevant to the



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time when the case was initiated. The tasks of the enforcement agents shall be regulated and defined in a completely new Enforcement Act. Agents should be more specialized and exclusively dedicated to enforcement proceedings.

- The Enforcement Act establishes too short deadlines that cannot be met.
- There are too many grounds for legal remedies and appeals, which makes the enforcement procedure too long.
 - The court i.e. the judges don't have any information about parallel proceedings.
 - Cooperation with the Police Department should be improved.
 - A secure electronic communication system is a must.
- The Enforcement Act should include regulation on professional staff that will have exclusive dedication to enforcement.

2. - ACCESS TO DEBTOR'S ASSETS

- Debtor's asset information can only be obtained on paper, which takes too long, is not accurate, and is expensive.
- Electronic communication should be regulated gradually. This way of communication would be a solution but according to some opinions these developments would be very costly and the benefit is questionable.
- A central database that contains information about movable and immovable property would be necessary.

3. - FINA ISSUES

- The court doesn't have any information of the activities of FINA.
- The information from FINA is very expensive for creditors.
- FINA's staff should receive more training in legal matters.
- Sometimes FINA does not grant the execution of court orders due to defects in form.
- E-auction is well accepted because it allows customers not to attend physically the auction, but also arises some concerns.
- FINA has well developed IT application. The problem is that other institutions have no developed IT application.

4.3. Round table in Split

Experts: **Mr. Javier Luis PARRA** and **Mr. Zoltan VARADY**

Stakeholders

Stakeholders from several professions and bodies were invited as participants one month in advance. The invited participants were bailiffs, judges, court advisors, public notaries, lawyers and representatives of Ministry of the Interior and of FINA.



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Questionnaire and methodology

According to the meeting which took place on Monday morning, the experts carried out the round tables applying the same documentation and methodology. Therefore we used a normalized questionnaire elaborated by the experts and applied the same workshops and plenary system. The process was monitored by two experts and people who could not speak English were helped by an interpreter.

In order to get active participation of the stakeholders a workshop methodology was implemented. The 18 attendees were split up in four smaller groups of 4 or 5 participants and they were invited to get a common position in relation to the questions and proposals (questionnaire).

The last part of the round table was paid to present and debate the different group conclusions in a plenary session of at least one hour.

Progress of the meeting

The Split Judicial Academy provided a proper venue and all the IT facilities necessary for the implementation of the activity.

Professional background of the participants: judges, court advisors, senior court advisors, public notaries, bailiffs, representatives of the Ministry of Finance, representatives of FINA, representatives of the Ministry of the Interior and one representative from Trade Unions. Finally, a total of 18 stakeholders attended the round table³:

1. Ana Kević Brakus, Judge
2. Neven Petković, Bailiff
3. Mirjana Popovac, Public Notary
4. Teo Karabotić-Milovac, Public Notary
5. Jadranka Longin, Court Advisor
6. Marija Rozga, Court Advisor
7. Sandra Marković, Ministry of Finance, Tax Administration
8. Ivo Brkljačić, Ministry of Finance, Tax Administration
9. Željko Gusić, Judge
10. Bože Šitum, Senior Court Advisor
11. Ivana Erceg Ćurić, Judge
12. Jermina Dujmović Živković, Judge
13. Stipe Masle, Judge
14. Jelka Kljaković Gašpić, Independent Trade Unions of Croatia
15. Irma Vladović, Senior Court Advisor
16. Jozo Šaškor, FINA

³ From Notary Chamber came one extra participant not included in the original list.



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17. Monika Režić, FINA
18. Ivica Tepeh, Ministry of the Interior

The experts made a short presentation about the enforcement system in EU MSs, the overall objective of the Twinning Project and the specific purpose of this activity addressed to them as relevant legal practitioners.

Later, the participants were divided into four groups bearing in mind the need to avoid several professional from the same body or branch. There were deliberating during one hour and assisted by the experts when there were some interpretations of the doubts about the questionnaire.

The last step involved all the attendees in a plenary phase. Once the internal debate was completed, the groups selected their speakers (a judge, a notary, a judge and a legal expert on out-of-courts solutions). Those speakers explained their conclusions and the three main prioritized proposals in order to improve the Croatian enforcement system.

Participants were actively involved with the methodology and activity contents. The roundtable took two hours and a half and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project.

There was a common sharing of inputs and they recognized the group 4 as the one who was more active with the responses.

Finally, the experts collected the conclusions delivered by the groups in written and a group photo was taken. They expressed their wish to receive by email the outcomes of this project and to include their names into this Activity Report.

Round table conclusions and proposals

In general terms, the four groups devoted more attention to questions 1 and 4 (weakness of the system and organization of courts). Also they agreed on the need of central database and electronic communications. The consensus was that the enforcement system should be developed with the modern IT solutions.

Summary of Conclusions:

1. - General questions:

- There is not a balance between the number of cases and the human resources.
- Different courts, different ways of working, this provokes unpredictability. There is a need to revise court organizations and register system. It is crucial to concentrate the enforcement cases and tasks (such as the delivery of documents) of specialized units or courts services.



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- The frequent changes in law are perceived as a burden. Besides, many of them consider that there are legal barriers such as excessive legal remedies and complaints from debtors.
- FINA is a solution just for monetary claims. No experience on e-auctions, but one group expressed their doubts about the feasibility of this solution.
- More training and harmonized practices by the different courts and sometimes within the same court.

2. - Questions related to communication:

- Communication by email would be more functional but is not a secure way of communication. It is necessary to rely on an e-mail encryption or electronic signature.
- The e-bulletin board and the 'e-predmet' are useful tools as delivery costs are reduced and procedure is much faster.

3. Proposals

Participants were requested to suggest the three main improvements needed by the Croatian enforcement system. These are their proposals:

- a. **Legal proposals.** There was a common agreement in relation to avoid legal barriers for the enforcement such as excessive legal remedies. Besides, some stakeholders pointed out the convenience of introducing deadlines and sanctions for those not respecting the deadlines.
The general view is that laws related to enforcement are modified far too often. Furthermore, the range of court bailiffs' powers to act ex officio should be expanded, introducing a wider scale of automatism and thus reducing the necessity of frequent enquiries and involvement of creditors in the enforcement procedure (eg. receiving information about the debtor's identity and assets should be conducted by the court bailiff ex officio, without requiring the creditor to collect these data personally).
- b. **IT developments.** There is a clear consensus demanding the implementation of IT solutions for the enforcement procedures: interoperability, secure electronic communications, etc. Particular attention was paid to the need of a unique central database with all the information on properties of all natural and legal persons and to connect this system with other EU MSs.
- c. **Organization.** Participants proposed to harmonize court practices on enforcement proceedings by means of concentrating efforts on common services or specialized enforcement units. Besides, some participants agreed in relation to the need of



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more people for work on enforcement cases in courts and better organisation of work.

4.4. Round table in Osijek

Experts: **Ms. Vanessa Untiedt and Mr. Ferenc Császti**

Round table conclusions and proposals

A round table with 24 participants was held in the premises of the Judicial Academy in Osijek. Round table was attended by the following participants: 6 Judges, 2 Court Advisors, 2 Senior Court Advisors, 2 Public Notaries, 2 representatives of the Ministry of Finance, 2 representatives of the Croatian Employer's Association, 2 representatives of FINA, 2 representatives of the Ministry of the Interior, 4 representatives of the Ministry of Justice.

Participants were really enthusiastic and they collaborated with useful answers. They wrote down the improvements needed by the Croatian enforcement system and made verbal summary of the discussion handled. Participants at the round table were glad to have a chance to express their opinions and the main concerns related to enforcement.

The beneficiary Country Project Leader had a speech at the meeting that gave a deeper insight into the civil enforcement problems, regulation and solutions.

The attendees were split in five groups of 3, 4 or 5 participants from different professions. They had the opportunity to discuss during one hour the improvement needed by the Croatian enforcement system and the conclusions were explained by one member of each group. They delivered the conclusions in written, as well.

1. - General questions:

- The system should be more centralized (a specialized service - which would be able to take over, keep and sell the object of enforcement (movables) - should be organized).
- Electronic auctions would be an excellent solution, but not necessarily implemented by FINA.
- FINA has been a good solution for the enforcement so far because the enforcement proceedings are faster.
- A centralized database on debtor's movable and immovable property would be useful.

2. - Questions related to communication:

- Communication by email is not a secure way of communication. It is necessary to have an e-mail encryption.



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- The e-bulletin board and the 'e-predmet' are useful tools since the delivery costs are reduced and the procedure is much faster.
- Paper communication is out-dated. Electronic signature should be empowered.
- The paper communication is out-dated from legal entities' perspective, but not from the perspective of natural persons. Not everyone is prepared to use electronic communication. This electronic communication should not be implemented before natural persons are prepared for that.

3. - Participants were requested to suggest the three main improvements needed by the Croatian enforcement system. These are their **proposals**:

- When drafting legislation it is necessary to involve judges.
- Data on enforcement debtor's property shall be centralized. Easy access shall be provided for such data.
- The enforcement system shall be better equipped.

Workshop conclusions:

1. - PROCEEDINGS ISSUES

- There are too many pending files in courts.
- There is no record of movables; it should be specified what can be enforced.
- Supporting the out-of-the-court enforcement, there are too many bodies involved in the enforcement, which extends the procedure. For example, the tax authority makes a resolution and sends it over to the court and that must be enforced. One body should be responsible for the whole process.
- There are too many amendments to the Enforcement Act and no transition between the changes.
- Too short deadlines are provided by the Enforcement Act that could not be met.
- The enforcement of movables is very complicated; the storage should be resolved without involving outside storage solutions.
- There are too many options for legal remedies, which make the enforcement procedure too long, many possibilities for starting trials and getting involved in court procedures; the law is always on the debtor's side. Although, they do not postpone the enforcement they significantly prolong the procedure time.
- Police Department is not always supporting the court bailiffs.
- The Enforcement Act should include regulation on professional staff that will have exclusive dedication to enforcement
- The courts are well equipped but there are no enforcement agents who would perform the enforcement procedures, the internet connection is not satisfying; there is no training or education.



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- The same individuals are showing up at all auctions so the assets can't be auctioned at fair value.

2. - ACCESS TO DEBTOR'S ASSETS

- There is a general problem with accessing the information on debtor's asset through different databases, since the information can be reached only by paper means, which takes too long, it is not accurate, and it is expensive. The paper communication is outdated, the electronic communication would be better.
- E-board is a good solution, electronic communication should be better, but according to some opinions these developments would be very costly.
- The email communication would be good, it is not clear enough how can it be realized; enforcement is not only for lawyers, not everyone can be reached by email.
- A central database with information on movables and immovable property would be necessary.

3. - FINA ISSUES

- The court doesn't have any insight into the activities of FINA.
- The information from FINA is very expensive.
- The FINA experts are not well educated in legal matters, which cause them to deny the enforcement of Court Orders (Decisions).
- E-auction is a concerning matter.
- FINA relieved the courts from many cases, they are taking over the real estates, but it won't speed up the procedures, since everything gets back to the courts anyway so it's not a solution.

5. FINAL CONCLUSIONS

a. Organization of enforcement services

Taking into account the different stakeholders' inputs we can conclude that consensus was reached in relation to the pressing need to professionalize and centralize the enforcement functions.

There is room for greater efficiency of the current system. It is possible to obtain better results by putting in place specialized units or services that may assume the enforcement tasks on a harmonized way of practice.

b. IT developments & enforcement



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There is a clear agreement demanding the implementation of IT solutions for the enforcement procedures: interoperability, secure electronic communications, etc. Particular attention was paid to the need of a unique central database with all the information on properties of all natural and legal persons.

All these IT applications should be handled and managed by the same enforcement unit instead of disseminating the efforts among different entities dealing with enforcement.

c. Legal considerations

There was a common agreement in connection with avoiding legal barriers to enforcement such as excessive number of legal remedies.

The general view is that laws related to enforcement are modified far too often. Furthermore, the range of court bailiffs' powers to act ex officio should be expanded, introducing a wider scale of automatism and thus reducing the necessity of frequent enquiries and involvement of creditors in the enforcement procedure.



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6. ANNEXES

6.1. QUESTIONNAIRE

ROUND TABLE

Activity 2.1.3

Solutions for improvement of cooperation between stakeholders

GENERAL

1. Why enforcement takes so long to be solved? Apart from the lack of money, why the enforcement proceedings are not working as well as it should be? Identify the problems and weaknesses of the enforcement system.
2. Does FINA represent a solution for the enforcement proceeding? Are the electronic auctions a solution for a faster payment?
3. When debtor is insolvent or has a deteriorated bank account, a centralized database on debtor's movable and immovable properties would be useful?
4. Are Court's employees fully equipped? Please, precise: lack of computer, training, protocols, good practices...

COMMUNICATION

5. Study reveals that paper communication can jeopardize good communication between enforcement agents. Do you think that paper communication is out-dated?
6. Data protection and email communication. Is communication by email a fluid and secure way of communication?
7. Is the e-bulletin board or the e-predmet useful tools?

PROPOSALS FOR IMPROVEMENT

Write here the three main improvements needed by the Croatian enforcement system



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6.2. WORKSHOPS REPONSES

ZAGREB

GENERAL QUESTIONS

1. Why enforcement takes so long to be solved? Apart from the lack of money, why the enforcement proceedings are not working as well as it should be? Identify the problems and weaknesses of the enforcement system.

G1

- The enforcement is not a job for the court, but for the public bailiffs.

G2 – G6

- NO ANSWER

G7

- Lack of specialization of judges and insufficient number of stakeholders involved in the enforcement procedure. Every judge has also other urgent files.
- Insufficient assistance of the Ministry of the Interior.

G8

- NO ANSWER

G9

- Delivery - abuse of procedural powers by parties.
- Abuse of complaints and deferment.
- Judges and court advisers are overburdened with pendent case files.
- Citation to discover assets ('prokazni popis imovine') has been prolonging the procedure so far and produces no results, particularly in the enforcement of movables.

G10

- Large number of file cases per judge.
- Frequent amendments to the Enforcement Act.
- Unfavourable position of court advisers.
- Poor economic situation in the country, high unemployment rate, insolvency of trading companies.
- Delivery to the enforcement debtors.
- Excessive number of legal remedies.
- Lack of uniformity of court practice and lack of training for judges and court advisers.

G11



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- Frequent change of legislation;
- Case backlog for pending case files to which the earlier regulations have to be implemented.
- Mixed 'referadas' – K, R1, O, P (NT: 'referada' refers to all case files that are assigned to one judge or court adviser).
- Enforcement is the crown of the civil proceedings.
- Inability to obtain relevant information from the competent authorities (HZMO - The Croatian Pension Insurance Institute, Tax Administration).
- The procedure should be simplified.

2. Does FINA represent a solution for faster enforcement proceedings? Are the electronic auctions a solution for a faster payment?

G1

- Yes, in case of the enforcement over monetary assets.

G2 – G6

- NO ANSWER

G7

- Yes, when we are talking about the enforcement over the monetary assets.
- No. Better access to data for interested parties should be provided.

G8

- Yes, but only over the debtors' accounts.
- Electronic Auctions, the way they are regulated so far, are not the right solution.

G9

- No feedback of FINA on the implementation of the enforcement over the monetary assets; they charge that service to the court.
- Speed - just as fast as banks.
- Advantage – work within the same institution and lower cost for the enforcement debtor, no ... (*illegible*)... the issuance of a writ of execution.
- Electronic auctions – will be demonstrated in further practice.

G10

- YES – in sense of the out-of-court enforcement (over the monetary assets).
- NO – lack of legal knowledge of FINA's employees.
- Excessive formalistic approach (for example: same OIB – personal identification number, but different name Ivan ≠ Ivo).
- Electronic auction will slow down the enforcement proceedings even more. Auction hasn't been a problem so far, only the assessment of real estate value. It is doubtful how will be carried out assessment of real estate value on the basis of tables of the Tax Administration (assessment 'from the office' and not 'on the spot'). Positive aspect: a



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number of bids from all over Croatia, better transparency - allow customers not to attend the auction physically.

G11

- Yes, deadlines are short, if they are met, it would work.

3. When debtor is insolvent or has a deteriorated bank account, a centralized database on debtor's movable and immovable properties would be useful?

G1 – G6

- NO ANSWER

G7 – G8

- Yes

G9

- It would be useful, but difficult to implement.
- The implementation would be more expensive than the benefit of such a database.
- Protection of personal rights and privacy of citizens.

G10

- Yes, it would be a kind of a substitute for 'Citation to discover assets' ('prokazni popis imovine').

G11

- Yes, the enforcement creditor shall have to ... (*illegible*) – vehicles, shares, court records.

4. Are Court's employees fully equipped? Please, precise: lack of computer, training, protocols, good practices...

G1

- No, they are not fully equipped.

G2 – G6

- NO ANSWER

G7

- NO

G8

- They are neither fully equipped nor motivated.

G9

- Outdated IT equipment.



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G10

- No, but situation is different from court to court.

G11

- Inconsistent court practice.

COMMUNICATION

5. Study reveals that paper communication can jeopardize good communication between enforcement agents. Do you think that paper communication is out-dated?

G1 – G6

- NO ANSWER

G7

- Yes, but only between some of the enforcement agents: Court-FINA, Court-Police, etc.

G8

- Yes, but it should not be completely excluded.

G9

- Electronic communication between courts and enforcement agents – YES.

G10

- Paper communication should be continued for safety reasons, and in proceedings between natural persons. Electronic communication should be regulated gradually.

G11

- Yes, electronic document - power of electronic signature.

6. Data protection and email communication. Is communication by email a fluid and secure way of communication?

G1 – G6

- NO ANSWER

G7

- No, it is necessary to have an e-mail encryption.

G8

- Yes.

G9

- It's not a legal but technical issue –to be addressed to the IT experts.

G10



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- It could be, but not necessarily.

G11

- No, the matter should be solved by the experts.

7. Is the e-bulletin board or the e-predmet useful tools?

G1 – G6

- NO ANSWER

G7

- Yes, the delivery costs are reduced and the procedure is much faster.

G8

- Yes.

G9

- YES. E-bulletin board has not yet been operational in practice. E-file is useful as a database but entering data takes a lot of time.

G10

- Yes.

G11

- Yes, the issue of connection should be resolved.

PROPOSALS FOR IMPROVEMENT

Write here the **three main** improvements needed by the Croatian enforcement system

G1

- Introduction of public bailiffs – specific knowledge - it is necessary to pass the Public Bailiffs Act.

G2

- E-enforcement, electronic service of motions for the enforcement to the notaries public over the Central base of the Croatian Notaries Chamber.

G3

- Access to data on the debtor's property by creating an electronic database.

G4

- Larger number of judges and more experienced court advisers, until the reduction of the backlog.

G5

- The Enforcement Act should not be changed frequently without taking into account the needs of judicial practice and experience from the court.



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G6

- Communication between courts and Ministry of the Interior, FINA, Tax Administration and other relevant institution.

G7

- Networking and availability of all courts and registers – OIB (Identification personal number,), the Court's Register, etc.

G8

- The legal framework for the implementation of the enforcement proceedings should be stabilized – very frequent changes of the legislation do not contribute to that stabilization.

G9

-The enforcement procedure should be standardized in a better way.

G10

- Number of legal remedies should be limited.

G11

- New Enforcement Act – NO to amendments!

2.

G1

- Greater powers to FINA in the process of the enforcement over the monetary assets should be given along with the proper training of FINA's staff who will implement such enforcement.

G2

- Accessibility of data on debtor's property.

G3

- Electronic communication between all enforcement agents – Courts, FINA, notaries public.

G4

- Improved training of the court bailiffs.

G5

- The present system of legal remedies leads to inefficient implementation of the enforcement procedure and delays the proceedings.

G6



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- Delivery problem

G7

- Unification of obligations and improvement of IT- especially in case of delivery.

G8

- The legislator should decide whom to entrust the implementation of the enforcement – to courts or other authority (FINA, public bailiffs)!!!

G9

- Courts should be equipped with better computer equipment.

G10

- Unique Enforcement Act for a longer period.

G11

- Small claims procedures (up to a certain amount) – should be sent out of the court and it should be specified who would have those case files.

- The statute of limitation should be introduced for the unpaid housing bills from '90.

- Legislator and the working group members must regulate their relations.

- Complaints – should be resolved ... (*illegible*).

- to leave enough time for the harmonization.

- Some provisions have not been implemented in practice.

- Problems of practice should be taken into account.

3.

G1

- Courts should render decisions on legal remedies, complaints and appeals.

G2

- Improvement of the services of the court bailiffs, introduction of public bailiffs, trained and equipped enough in order to have faster procedure.

G3

- The Enforcement Act and the Regulation on the Electronic Auction should be amended because the communication with FINA is very complex. It should be simplified and the competences of the court bailiffs should be strengthened.

G4

- Electronic auction for movable assets on the model of the Hungarians.

G5

- Judges do not have access to all necessary registers, not all courts have e-bulletin board and other necessary equipment what makes e-spis (e-file) poorly efficient.



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G6

- The costs of the enforcement procedure should be limited.

G7

- Education and communication of all enforcement agents- should be supported by appropriate legislation.

G8

- Courts and other state authorities in the process of exchange of data required for the implementation of the enforcement should be computerized and electronically communicated

G9

- The communication between courts and FINA should be established.

G10

-NO ANSWER

G11

- IT - better connection of the participants in the proceedings.

RIJEKA

GENERAL QUESTIONS

1. Why enforcement takes so long to be solved?; Apart from the lack of money, why is the enforcement proceeding not working as well as it should be? Identify the problems and weaknesses of the enforcement system.

G1

- Lack of debtor's assets
- Lot of cases, very few employees
- Problems with delivery
- Absence of registry of the entire property of the debtor i.e. centralised (unified) database
- Transfer of the debtor's assets to a third party
- Often changes of law

G2

- Lot of cases
- Frequent changes in laws (acts)
- Too small number of people that deal with it

G3

- Problems are the internal organization of the courts and the system of evaluation of judges' work.



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- Legislative provisions regarding the time limits for rendering the second-instance decisions and delivery.
- Lack of the centralized system so called e-enforcement.
- Lack of central register of movables and immovable property.

G4

- Register of movables does not exist
- Land registers are not ordered
- Access to records.
- Police
- Banks
- 'Živi zid' (NT: Association for protection and assistance to victims of evictions) – the general public is on the debtor's side
- Old file cases without OIB (personal identification number)
- Rijeka: 40.000 file cases, 3 judges, 4 court advisers and 3 bailiffs
- Change of the object and means of the enforcement (endless procedure)
- Conversion of the enforcement to a litigation procedure
- Access only to data on address (OIB)
- Second instance –long-lasting (abuse of appeals – deferment of the enforcement)
- No connection with the Land Register
- Records on movables (vehicles)
- Delivery
- Frequent amendments to the Enforcement Act

2. Does FINA represent a solution for faster enforcement proceedings? Are the electronic auctions a solution for a faster payment?

G1

- Yes, more regular and promptly treatment
- It is probable; FINA already has good IT (computer) backup

G2

- Yes, for enforcement over monetary claims; regarding the real estate we don't know yet, we will see this in the future. For starting the auction it depends on the proposal of the enforcement creditor so bigger availability is questionable

G3 Yes, FINA is a good solution.

G4

- Yes – creditor doesn't have to know the debtor's accounts number
- Weakness – excessive formalism and insufficient familiarity with the matter by FINA's employees – problem with terminology



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- Interest on litigation costs– they are not willing to pay
 - If rate is not calculated – they are not willing to implement the procedure
 - They are not willing to implement Interim measures
 - Electronic Auctions – we haven't had any so far, therefore we have no experience
 - Positive aspects- larger number of bidders, easy access to ads on the sale of real estates and auctions.
3. When debtor is insolvent or has a deteriorated bank account, a centralized database on debtor's movable and immovable properties would be useful?

G1

- Yes
- but current data is out-of-date
- Tax Administration already has a database

G2

- There are databases and they're available to enforcement creditors, it would be good that there is one database.

G3

- Yes.

G4

- YES, absolutely. It would be very useful to dispose of the data, but the court cannot do anything *ex officio*. In that part everything depends on the enforcement creditor's initiative.

4. Are Court's employees fully equipped? Please, precise: lack of computer, training, protocols, good practices...

G1

- No, lack of computers
- Equipment
- Lack of training.

G2

- Yes, when the work is well organized then this shouldn't represent a problem.

G3

No answer

G4

- Negative aspect: training of the staff (Judicial Academy?)



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- Lack of professional literature
- Lack of accessibility to the Case-law (IUS info)

COMMUNICATION

5. Study reveals that paper communication can jeopardize good communication between enforcement agents. Do you think that paper communication is out-dated?

G1 - Yes.

- Electronic communication and electronic signature should be introduced as a standard.

G2 – We are not sure, with some adjustments of the work, to be included in bigger system as "e-predmet" (e-file).

G3 – Mostly outdated.

G4 - Yes. Paper communication slows down the work process.

- Electronic communication is faster and safer.

6. Data protection and email communication. Is communication by email a fluid and secure way of communication?

G1 - Yes, effective and safe.

G2 – Yes.

G3 -Yes, but only with electronic signature.

G4 -Yes, e-mail is more functional and more operational.

7. Is the e-bulletin board or the e-predmet useful tools?

G1 - Yes, under condition that it is followed by appropriate electronic / computer support.

G2 - Yes.

G3 - Yes.

G4 - Absolutely – it is important to start working (operating).

PROPOSALS FOR IMPROVEMENT

Write here the **three main** improvements needed by the Croatian enforcement system

G1

- LEGAL SECURITY – to create a reliable and quality legislation that will not be constantly amended.

- COMPUTERIZATION with a common training of all participants involved in the enforcement proceedings.



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- Establishing a solid value system based on the principle 'Pacta sunt servanda'.
- A centralized location for sale of real estates.

G2

- More people for enforcement cases in courts, and better organization of work.
- Introducing 'e-communication' – with other institutions and lawyers.
- Less frequent amendments to the law

G3

- Centralized Register of Real Estates.
- Introduction of the e-enforcement.
- Implementation of good legislative provisions from EU countries in our system.

G4

- Registers (databases) should be connected with the enforcement court.
- Training of the bailiffs.
- Access to Case-law.
- Abuse of the legal institutes (deferment, marital property) should be prevented.

OSIJEK

GENERAL QUESTIONS

1. Why enforcement takes so long to be solved? Apart from the lack of money, why the enforcement proceedings are not working as well as it should be? Identify the problems and weaknesses of the enforcement system.

G1

- NO ANSWER

G2

- The system should be more centralized (a specialized service - which would be able to take over, keep and sell the object of enforcement (movables) - should be organized).

G3

- Problems: Frequent amendments to the Enforcement Act and ad hoc solutions as well as insufficient involvement of practice disturb the system structure (for example: the deadline for declaration about the motions for enforcement is 1-2 days).



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G4

- Frequent amendments to the Enforcement Act.

G5

- Awareness of citizens regarding the need to update data on the change of address - makes delivery complicated.
- No Citizens' Property Inventory.

G6

- Excessive number of legal remedies.

- The current system protects the enforcement debtor, not the enforcement creditor.

- Frequent amendments to the Enforcement Act.

G7

- Excessive number of legal remedies in the Enforcement Act - considerably slows down the enforcement proceedings.

2. Does FINA represent a solution for faster enforcement proceedings? Are the electronic auctions a solution for a faster payment?

G1

- NO ANSWER

G2

- Electronic auctions would be an excellent solution, but not necessarily implemented by FINA.

G3

- Yes.

G4

- FINA has been a good solution so far because the enforcement proceedings are faster.

G5

- NO ANSWER

G6

- Yes. Further practice will show.

G7

-Yes, FINA is a great solution for faster enforcement procedure regarding monetary claims, but regarding the real estates the courts are still overburdened. A lot of actions



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are carried out by Court (decision on enforcement, decision on legal remedy, market value of real estate, etc.), then the case is forwarded to FINA, and FINA returns case file to Court for rendering some new decisions. All the communication between Court and FINA is in paper form.

3. When debtor is insolvent or has a deteriorated bank account, a centralized database on debtor's movable and immovable properties would be useful?

G1

- NO ANSWER

G2

- It would be very useful.

G3 – G5

- Yes.

G6

- Yes, but for the enforcement creditor.

G7

- It would be very useful; the procedure would be shortened.

4. Are Court's employees fully equipped? Please, precise: lack of computer, training, protocols, good practices...

G1 – G2

- NO ANSWER

G3

-All.

G4

- We don't know.

G5

- The practice should be standardized - through trainings and seminars - at the level of the Republic of Croatia ('best practice').

G6

- NO, old computers, old IT equipment, bad internet connection, no books, no Acts, no case-law, etc.

G7

- Sufficient.



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- Lack of professional court bailiffs (in some courts, 'bailiffs' activities' are carried out by other employees of the court after regular working hours.

COMMUNICATION

5. Study reveals that paper communication can jeopardize good communication between enforcement agents. Do you think that paper communication is outdated?

G1

- NO ANSWER

G2

- Excessive number of enforcement agents; outdated communication.

G3

- We partially agree.

G4

- The paper communications is outdated from legal entities' perspective but not from the perspective of natural persons.

G5 – G7

- Yes.

6. Data protection and email communication. Is communication by email a fluid and secure way of communication?

G1

- NO ANSWER

G2

- Yes.

G3

- We partially agree.

G4 – G5

- Yes.

G6

- Yes, with good encryption.

G7

- E-mail communication in the Republic of Croatia hasn't been fully developed so far.



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7. Is the e-bulletin board or the e-predmet useful tools?

G1

- NO ANSWER

G2

- Yes.

G3

- We partially agree.
- Lack of general informatization process in Croatia.

G4 – G5

- Yes.

G6 – G7

- NO ANSWER.

PROPOSALS FOR IMPROVEMENT

Write here the **three main** improvements needed by the Croatian enforcement system

G1

- Training and IT equipment.
- Centralized database.
- Objective of the system of ... (*illegible*).

G2

- NO ANSWER
- NO ANSWER
- NO ANSWER

G3

- When drafting legislation it is necessary to involve judges.
- Enforceable institutes shall be simplified in terms of achieving the objective and purpose of enforcement: the settlement of the enforcement creditor's claim.
- Data on enforcement debtor's property shall be centralized. Easy access shall be provided for such data. The enforcement system shall be better equipped.

G4

- Centralized Real Estate Register (searching by OIB – personal identification number).
- The employer's liability should be excluded from the enforcement procedure.



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- Enforcement on movables – some shops with enforced movables (commission agents) should be established.

G5

- NO ANSWER
- NO ANSWER
- NO ANSWER

G6

- Number of legal remedies should be limited.
- E-file, IT equipment.
- Well-established legislation and practice.

G7

- Centralized database on the debtor's property (fast and easy access).

SPLIT

GENERAL QUESTIONS

1. Why enforcement takes so long to be solved?; Apart from the lack of money, why is the enforcement proceeding not working as well as it should be? Identify the problems and weaknesses of the enforcement system.

G1.

- Large number of court cases in comparison to number of person to deal with these cases.
- Often changes of law and bad legal solutions.
- Disorganized register system.

G2.

- Large number of backlog cases.
- Too many parties in the proceedings slow and make communication difficult.
- This communication needs to be speeded up.
- Some disputable issues are to be solved by email with signature protection.

G3.

- There no special enforcement units or services, all judges work for everything.
- Administrative burden on judges instead of focussing on application of law.
- Impossible and difficult delivery and serving of documents.

G4.

- There are too many possibilities for remedies and complaints that take long to solve the case.
- All court decisions need to be delivered to all the parties.



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- Delivery problems.
 - Disorganized data registers.
2. Does FINA represent a solution for faster enforcement proceedings? Are the electronic auctions a solution for a faster payment?
- G1.** FINA is a solution. E-Auction - we will see.
- G2.** FINA is a solution. E-Auction - we will see. Is there enough time for enforceable person during one e-auction to try to sell by himself under better conditions?
- G3.** FINA is a solution. E-Auction - no experience.
- G4.** FINA is a solution just for monetary claims. E-auction is not a good solution because judge has to decide on any proposals and send it to all the parties.
3. When debtor is insolvent or has a deteriorated bank account, a centralized database on debtor's movable and immovable properties would be useful?
- G1.** Yes.
- G2.** Yes because it is useful taking some EU MS practices.
- G3.** Yes.
- G4.** Yes.
4. Are Court's employees fully equipped? Please, precise: lack of computer, training, protocols, good practices...
- G1.**
- No. Lack of IT equipment, bad interoperability between legal practitioners and involved institutions. It would be good to have access to one central database.
- G2.**
- No. Lack of technical and space capacities and non uniform courts practices.
 - Courts employees should be informed in time on novelties in practice.
- G3.**
- No. Lack of computer, training and non-harmonized practices by the different courts and sometimes within the same court.
- G4.**
- Education of judges and court advisers on good practices on a permanent basis, particularly because the frequent changes of law.

COMMUNICATION

5. Study reveals that paper communication can jeopardize good communication between enforcement agents. Do you think that paper communication is out-dated?
- G1.** Yes.



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G2. The paper communication is still desirable, especially with the debtors. To manage two types of files (paper and electronic formats) may represent a burden for judges and advisers.

G3. Yes.

G4.

- Yes, but there are areas where there are no IT facilities and paper communication is necessary.

6. Data protection and email communication. Is communication by email a fluid and secure way of communication?

G1. Yes. But secure!!

G2. Yes, but proper security.

G3. Technical support is the condition for the implementation.

G4. Yes it is efficient but not sufficient since it is not fully secure.

7. Is the e-bulletin board or the e-predmet useful tools?

G1. Yes.

G2. Yes but for all kind of proceedings and not for everybody.

G3. Yes.

G4. Yes

PROPOSALS FOR IMPROVEMENT

Write here the **three main** improvements needed by the Croatian enforcement system:

G1.

1. To prohibit frequent amendments to the law and regulations.
2. To distribute and allocate cases more equally among judges or to employ more people.
3. To set up a central directory in Croatia with all data (land register, cadastre...).

G2.

1. To introduce deadlines and sanctions for not respecting the deadlines.
2. To harmonize court practices in proceedings.
3. To reduce legal and organizational barriers.

G3.

1. To establish a unique database system on property of all natural and legal persons and to connect this system with other EU MS.
2. Specialization of judges and advisers and better evaluation of their work.
3. To change the law in a way that the enforcement agencies are forced to speed it up (more *ex officio* action).

G4.

1. To reduce legal remedies and complaints from debtors.



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2. To set up a special service only for delivering enforcement decisions.
3. To set up a unique database with all the properties of enforced persons available to institutions and enforcement agencies that it will be updated on a regular basis.