

Tax enforcement proceedings and civil execution as two sides for the same purpose

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Abstract

This article aims to introduce the complexity of relationships between sectors in procedural tax law and civil procedure in terms of enforcement proceedings and legislation. Tax foreclosure procedure is a type of legal process, which is relatively independent, specific and relevant in legal proceedings, which also has several features in common with other types of legal processes, such as the civil enforcement proceedings. For the use of particular methods of scientific comparison and methods of scientific analysis we highlighted the particularities embodied in the statutory adjustments, and in their interaction.

Key words Proceedings in tax enforcement , civil execution, enforcement

The essence of tax enforcement proceedings in relation to civil foreclosures

Tax enforcement proceedings and the civil execution process are two institutes of law enforcement, but they operate under two different groups of legal relations - public law and private law. Given the fact that even in the recent past it has generally followed the recovery of tax arrears under the provisions regarding the Code of Civil Procedure, and even today it is possible to influence the alternative of that code in order for municipalities to consider it appropriate and to devote some attention to the general comparison of the two institutes.

Enforcement of judgments and other decisions in a civil trial carried out on the basis of two legal regulations. The first legal basis for this exercise is the sixth part of the Code of Civil Procedure and another legal basis for the enforcement of a court or other decision is the Execution Code. Both of these treatments include a large number of common legal institutions as well as these subsystems of execution in many different aspects.

Enforcement and execution consists of two subsystems regarding equivalent civilian law enforcement. If the law uses terminology enforcement under the Code of Civil Procedure, it not only must be understood by judicial enforcement, but also by carrying out executions according to the Enforcement Code.

The purpose of civil enforcement proceedings is forced execution of judicial or other decision related modifications regarding absolute property rights which are mandatory in order to meet the legitimate claim that it was granted as enforceable by the court or another authority or, as the execution of the notarial deed or other legally enforceable agreements .

When determining the difference between tax enforcement proceedings and civil enforcement we mainly focus on the following aspects:

- Tax enforcement proceedings and civil execution carried out by different parties;
- Civil judicial execution as opposed to tax enforcement proceedings subsystem of private law.

Civil judicial execution procedure of enforcement bodies, some which are particularly enforceable include the court bailiff and the parties in the forced execution of judgments and other decisions. Unlike civil judicial enforcement, tax enforcement proceedings conducted by tax authorities, customs authorities and municipalities, or public authorities.

Private civil law judicial enforcement and public nature of the tax enforcement proceedings may be determined on the basis of known as "theory of interests". While civil judicial execution is based on legal equality and a particular account regarding the interests of individuals, the tax execution procedure is, as already mentioned, typical subordination of parties and prioritization of public interest. Expression of private law is that enforcement under the Code of Civil Procedure, as well as execution Execution rules are a designed procedure, and are respectively controlled by the principle in (a specific exception is enforcement of custody of minors under § 272 of the Code of Civil Procedure). In contrast, expression of the public nature related to the tax execution procedure, you can only begin this procedure on the initiative of the tax.

Determining the relationship between tax enforcement proceedings and these subsystems as far as civil rights enforcement is very difficult, despite the relative autonomy of these kinds of enforcement proceedings which are broadly similar, as there are often overlaps and they are similar. This overlap is most evident in the execution entitled to make tax arrears through civil judicial enforcement if the tax is in a municipality regarding the tax execution or attachment of earnings and other income, where the taxable wage proceed after the receipt of tax enforcement order under the provisions of civil judicial enforcement.

Even though these two legal processes are complementary and overlap they are quite different, so they should be seen as relatively autonomous and independent kinds of enforcement proceedings.

Recently, it presents the same effort from the legal practice concerning the abolition of tax enforcement proceedings with the fact that the forced execution of tax arrears bailiffs have moved forward. However, such a system is not the solution and it would be the source of an undesirable phenomena, which is mainly associated with the differences of these kinds of execution as they cause unbearable congestion of the courts, which generally would not increase the tax efficiency of execution and fulfillment for its purpose.

Tax foreclosure procedure begins with the tax authorities on the basis of an enforceable title based on a decision to initiate tax execution procedure. A tax enforcement order is a final and enforceable decision or statement of tax arrears. The tax issues for recovery of tax arrears under an enforcement order concerning tax debtor's is only one decision regarding the entire tax enforcement proceedings and, within it for all permissible methods of tax enforcement and all those who are served. The date of the decision to initiate the tax execution procedure, this decision is final and remedies cannot be lodged against them. The tax shall indicate this fact in the decision guidance. The decision shall be served as an exhaustive list of persons and not include the tax debtor or its guarantor.

Tax execution challenge is an obligatory act of the tax. The tax challenge announces the tax debtor, and the initiated tax enforcement proceedings to recover tax arrears within the period prescribed by the tax administrator. It also requires to pay the arrears in the time limit prescribed. The challenge is given to

the tax debtor with the opportunity to avoid enforcement of tax execution of the tax writ of execution. Tax execution challenge moves the tax forward as soon as the decision is made to initiate tax enforcement proceedings is served on persons receiving, registration, loading, or managing the assets of the tax debtor. The tax authority shall issue a tax execution call immediately after the decision to initiate the tax execution procedure. A tax executory call is delivered to the tax debtor, and any substitute service is excluded. If the debtor unreasonably refuses to accept the tax execution call received on that day, when they denied admission, they shall be instructed by the tax debtor, who delivers it.

The tax enforcement order issued by the tax authorities after the lapse of the period for lodging an appeal against the tax execution call, or when the tax allows the appeal in part, or if the tax shall be delivered to the Appellate Body, in which the appeal was rejected. It shall enter into force on the date of its issue and not against an appeal.

Civil enforcement proceedings will be initiated by a petition, the date when the bailiff received a proposal for a levy of execution, which may take up execution by conferring the court for its implementation. Execution can only be performed on an authorized draft or proposal of the person who proves that they were influenced from making the right decision. An eligible person may submit a proposal if required and voluntarily fulfill what he imposes as an enforceable decision.

An enforceable decision concerning the writ of execution, but is only granted the right to undertake duties or affecting the property. The Bailiff, who had received a proposal authorized to conduct enforcement, submits the proposal along with an enforceable title within 15 days of receipt and given the application the court and requests him to give authorization to conduct enforcement. The executor responsible for the implementation and enforcement of mandatory notice authorized to initiate enforcement or the method of its implementation and the preliminary costs of execution, while it is compulsory to make a legitimate claim to or within 14 days of receiving notification and prohibits dispose of the property. Notification must include the statutory requirements which are served on the creditor and debtor in person, substitute service notice of initiation of an execution debtor who is a natural person is excluded. If you cannot deliver a document to a natural person authorized to do business in or at the business address listed in the commercial register or no other register and the other address is known to the bailiff, the document shall be three days after the return of the undelivered items which are to be delivered by the bailiff, even if the individual beneficiary is not aware of this fact. It is required to be raised by the designated executor in order to levy execution against foreclosures.

The opposition is obliged to deliver this to the court bailiff regarding any objections by the courts.

The decision, which upheld the opposition is an admissible appeal.

In the case of a decision, which upholds the opposition, the court execution stops.

A bailiff shall issue a writ of execution after the deadline to oppose the execution or after, when he delivered a final court decision on the objections, in which the opposition is rejected.

Postponement of civil execution and enforcement of tax deferral are the institutes in which identity is preserved in § 95 paragraph. 3 of the Law on Tax Administration and § 56. 1 Enforcement Code, under which the execution may be postponed if required if a person is without fault, occasionally in a position where the immediate execution could have adverse consequences for him or for members of his family.

The tax and deferred tax bailiff enforcement implemented at the request of the tax debtor who is a natural person. For tax foreclosures a tax debtor must prove those facts to the tax administrator in civilian foreclosures and the entrepreneur demonstrates this to the court upon request.

Contrary to delay execution in civil proceedings, deferred tax enforcement in tax enforcement proceedings, tax execution may defer the tax authorities based on their own initiative, and it is an ascertaining fact in the submission of tax execution.

If in the tax deferred tax execution, and if operations are carried out and maintained.

The difference in these two procedural institutes also lies in its appeal against the decision.

The decision to postpone the tax execution cannot appeal against the decision to postpone the execution, as deferred execution may be appealed.

Stopping tax execution procedure in § 96 paragraph. 1 of the Law on Tax Administration (Tax Code) and amending certain laws with effect from 1.1.2013 and stopping the civil enforcement of § 57 paragraph. 1 Enforcement Code. Reasons that can do so are of a similar nature, including, in the case of stopping execution or tax execution in part, enforcement proceedings and can bring tax enforcement proceedings to a halt, but only partially.

Among the modalities of execution of tax according to § 98 paragraph. 1 of the tax law (Tax Code) include:

- a) deductions from wages and other income
- b) a garnishee order
- c) the sale of movables
- d) withdrawing of cash and other things for which are not for sale
- e) the sale of securities
- f) the sale of real estate
- g) the sale of the company or its parts
- h) impairment of property rights associated with ownership interest in an associate company.

Among the modalities of execution in accordance with § 62 et seq. Act no. 233/1995 Z.z. on Court Executors and Execution (Execution Act) include:

- a) deductions from wages and other income
- b) a garnishee order
- c) the sale of movables
- d) the sale of securities
- e) the sale of real estate
- f) the sale of the company
- g) a detention order for a driving license.

Regarding the above methods of implementation connected with execution is drawn to the fact that civil execution knows how to perform execution by confiscating money and other things which are not for sale, as well as execution disabilities and property rights attached to shares by a shareholder in a company. Among the methods for performing tax execution as well as finding a way to perform an execution detention order for a license, which applies in civil enforcement proceedings. The account of the introduction of the method of enforcement of tax execution and an order for the cessation of the license, so as to enable the enforcement procedure for the recovery of maintenance claims in such a way, so the legislature enshrined in legislation could be as effective as tax debtors, especially, entrepreneurs

who use vehicles for their businesses but then, this could cause problems in their business activities, which could be negatively reflected on their tax revenues. My opinion is that there are 8 methods of tax execution which should be sufficient to recover tax arrears effectively.

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