



The Organization System and Rules of Judicial Execution in Europe¹

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Abstract. After a short theoretic introduction, this paper deals with the regulation model of a few European countries in short and analyses the duties and proceedings of bailiffs in these countries. The countries in which the organization of bailiffs should be presented are the following: Hungary, France, Estonia, Finland, Austria, Belgium, the Czech Republic, Denmark, Greece, the Netherlands, Poland, Lithuania, Luxembourg, Germany, Italy, Portugal, Spain, Scotland, Sweden, Slovakia, and Slovenia.

Keywords: judicial execution, organization of bailiffs, civil procedure

Introduction

“The bailiff’s work means the only lawful, legally fully regulated path to execute court decisions. Bailiffs exercise the above under the complete legal control of the independent Hungarian administration of justice. Judicial officers/bailiffs represent the guarantee in successful, lawful enforcement of court decisions. In the absence thereof, market economy resting on and operating on the basis of contracts might be endangered and this might lead to devaluation of the rule of law.”²

The above announcement clearly points out that it is not enough for a working legal system to arrange for deciding legal disputes; this may not provide sufficient guarantee by itself. Let us think of the structural setup of civil law norms where, at variance with criminal law norms, the third structural element is more differentiated. Namely, it is unambiguously clear that in the area of criminal law we can speak only about sanctions since the necessity of the material of rules arises only in the event that somebody breaches a norm. The civil law regulation (also in this area) is more complicated. For in this area – at variance with criminal law – one has to reckon not only with the ‘possibility’ that law enforcers proceed

1 Presentation held at the conference of the Hungarian Chamber of Judicial Officers.

2 10 June 2010, International Union of Judicial Officers (UIH) [press release].

differently from legal rules but also that in most of the cases they do not breach statutory provisions or their obligations assumed under contract by their act and the intended legal consequence is incurred.

The “rate” of the law-abidingness of natural and legal persons and other organizations not constituting a legal entity can be, among others, one of the measures of the stage of development of a society. It is almost impossible to examine whether or not and to what extent members of a community engage in law-abiding conduct because statistics can only estimate the number of contracts concluded and performed.

As a matter of fact, everyone develops a picture about the legal security that characterizes specific states or regions. A serious businessman who regularly enters into contracts with foreign persons will most certainly examine the chances for the execution of their contract, for the partner’s performance in conformity with the contract in the country of their business partner. This kind of “social development” consists of several components. It depends, on the one hand, on the relevant social establishment, the economic standing of the country, the degree of welfare by which it “coddles” its citizens and, on the other hand, on the legal culture that characterizes it. And in this respect the legal culture by all means includes enforceability, in addition to complexity of regulation, fair and rapid nature of application of law. Legal security requires coercion as a final solution in case of non-compliance with the provisions set out in agreements and non-performance of the requirements set out in the decisions of bodies that decide the legal dispute, which drives persons, who have left it, back to the path of law-abidingness.

“Execution proceedings is nothing else than the form of enforcing the condemnation set out in the final decision stipulated in legal rule.” This definition has been left to us from Roman law; however, the provisions set out therein have been valid up to now. The tools of regulation are different from country to country and from time to time; however, it is uniformly typical to take efforts to develop and maintain legal security implemented also through coercion applied by the state.

1. Hungary

The Hungarian name of bailiff is *independent judicial officer* (*önálló bírósági végrehajtó*). They carry out the enforcement of court decisions and enforceable documents and service of documents. They may make ascertainment of facts, may carry out collection of debts in an amicable manner or in court proceedings, may give legal advice, and may hold auctions.

Bailiffs are independent and carry out their activity independently. They are appointed by the Minister of Justice. The process of becoming a bailiff and the

bailiff's activity are strictly regulated. For the entire territory of the country, there are 203 independent judicial officers, 11 of whom are women. At present, approximately 25 offices perform their activity in the form of a company; bailiffs employ a total of approx. 1,200 employees. *Independent judicial officers* pursue their activity with regional competence that belongs to court. The Hungarian Chamber of Judicial Officers represents bailiffs at national level.

In order to be a bailiff, a person shall be a Hungarian citizen and shall have immaculate morals. It requires 4 years of university studies in law and 2 years of professional practice followed by bar examination. After that, it is necessary to work for 1 year at a bailiff's office. Bailiffs are appointed by the Minister of Justice. Bailiffs attend further training programmes at least once a year. Employees can also attend training courses organized by the profession and courts.

Enforcement of court decisions and enforceable documents are carried out solely by them. Bailiffs shall be responsible for the entirety of execution. The court, which has adopted the decision, sends the document to the competent bailiff. Judicial officers comply with the following hierarchical system in the course of execution proceedings:

1. execution by blocking bank accounts;
2. stoppage of payment of wages;
3. seizure of movable property;
4. seizure of immovable property.

As soon as it is required by law, judicial officers contact the executory judge or the public prosecutor, requesting them to grant necessary authorizations and order the measures to be taken. If execution meets any difficulties, judicial officers will take minutes, which is to be examined by a judge, who decides the case. Judicial officers may request information from every register, except for registers of mobile phones. Information may be requested from registers electronically directly from the office. The costs of the service of bailiffs shall be borne by the debtor, but in case the debtor is unable to do it, the person who requests execution shall pay them.

Solely bailiffs may serve judicial and extra-judicial documents. Courts may send documents by post as well. Bailiffs deliver documents personally to the addressee. They may deliver documents to members of the family found at the address. If they cannot deliver the documents, they will post a notice on the door of the addressee's apartment, calling the addressee to take over the document at the bailiff's office. They will send the document also by post and may try to deliver it again personally. Bailiffs will take minutes on delivery, which later on may serve as evidence. At present, bailiffs do not apply Council Regulation (EC) No 1348/2000. They can carry out amicable collection of claims; this activity shows a growing tendency.

Parties concerned may request collection of debts directly from a judicial officer. They shall contact an independent judicial officer and hand over the documents

to him/her. First, the judicial officer will try to collect the debt amicably; if this is not successful, they will take necessary steps to issue enforceable documents to enable them to effect execution. Judicial officers may freely agree on the fee of the service within the frameworks of amicable collection with the client. In the case of judicial execution, the fee is defined by tariff.

Judicial officers may carry out sale of movable property by auction. They have power of sale and may arrange for sale by court. Ascertainment of facts is limited and may be made mainly upon the request of a judge. Judicial officers may not represent the parties before court, but they are responsible for submitting the application for execution to the competent judge. They may give legal advice to the parties within the frameworks of execution. They may not carry out any other activity.

On the 3rd World Day of Judicial Officers, on 10 June 2010, the Hungarian Chamber of Judicial Officers as a member of the Union joins the press release declared by the organization. On the basis thereof, the community of independent judicial officers declares that in its ruling No 46/1991 the Constitutional Court of the Republic of Hungary pointed out that showing respect for court decisions, execution of final court decisions – including application of judicial execution – belong to constitutional values related to the rule of law. In the course of enforcement of court decisions, judicial officers make efforts primarily to help the dialogue between the parties free from conflicts and to resolve issues amicably within the frameworks provided by law.

2. France

Bailiff in French is called *huissier de justice*. Solely judicial officers may carry out enforcement of court decisions and enforceable documents and service of documents. They may make ascertainment of facts, may carry out collection of debts, and in certain cases determine the estimated value of movable property and carry out the sale thereof by auction. Bailiffs are independent and carry out their activity independently. They are appointed by the Minister of Justice. The process of becoming a bailiff and the bailiff's activity are strictly regulated. They shall comply with professional, ethical, and disciplinary requirements. There are approximately 3,250 bailiffs, including 690 women. They may pursue their activity alone or in a professional union. 2,280 bailiffs operate as members of a company in 1,061 companies and 970 bailiffs carry out their activity on their own. They employ approx. a total of 11,000 employees.

In order to be a bailiff in France, a person shall be a French citizen and shall have immaculate morals. It requires a degree in law (4 years of university studies) and 2 years of professional practice period fulfilled at a bailiff's office and taking a bar examination. After that, they shall find a bailiff's office where they can pursue

their activity or may acquire the position by being appointed by a bailiff to be his/her successor. After that, they will be appointed bailiffs by the Minister of Justice. Education programmes are provided by several organizations acknowledged at international level, specialized in further training of judicial officers (IFOCH), training of employees (ENP), and education of trainees fulfilling their practice period (DFS).

Judicial officers responsible for execution carry out execution and sequestration alone. Concerned parties may freely choose a bailiff, but only a bailiff competent in the location of the execution will effect execution. Bailiffs may carry out execution covering the debtor's total property, be it movable, corporate, or intellectual property. They may sequester movable property. Judicial officers shall be responsible for execution measures. As soon as it is required by law, judicial officers contact the executory judge or the public prosecutor, requesting them to grant necessary authorizations and order the measures to be taken. If execution meets any difficulties, judicial officers will take minutes, which is to be examined by a judge, who decides the case.

Judicial officers' requests are limited to the debtor's address, bank details, and employer. They may request information from the register of real properties and the register of motor vehicles.

The costs of the bailiff's service will be borne by debtors, but if they are unable to cover them then the party requesting execution shall pay them. Bailiffs are entitled to commission on the collected amount, which shall be paid by the party who requests the execution. This amount is EUR 303 for EUR 5,000.

Solely judicial officers may serve judicial and extra-judicial documents. Apart from exceptions, the document that institutes the proceedings shall be also served by bailiffs. Judicial officers serve approx. 10 million documents per annum.

Documents are delivered personally to the addressee by bailiffs or in certain cases by a person designated by them. They may hand over a reproduced copy of the document to the person found at the address, the porter or a neighbour. If nobody can take over the document, bailiffs will place them at the mayor's office. They will leave a notice on the fact of this placement and will send the document to the addressee also by post. If the addressee has moved without any known new address, judicial officers will take minutes on unsuccessful delivery and will send a normal and a registered letter by post with receipt of delivery requested to the last known address. In the minutes taken, bailiffs will write down the circumstances of the delivery of the document, which later on may serve as evidence.

In accordance with the provisions set out in Council Regulation (EC) No 1348/2000, bailiffs qualify as transmitting agencies and the chamber of judicial officers as a receiving agency, which has documents served by bailiffs competent in the relevant territory.

French bailiffs carry out collection of debts through legal proceedings and in amicable manner. This amounts to 20% of the activity of French bailiffs. Judicial officers may be contacted directly and documents may be handed over to them. Bailiffs are responsible for the entirety of the collection. First, they try to collect the debt amicably, and if this is not successful they will take necessary steps to receive enforceable documents and to be able to enforce them.

Judicial officers may determine the estimated value of movable property and may carry out the sale thereof by auction in case no official appraiser and auctioneer is available. This is an important activity of certain bailiff's offices.

Bailiffs may be requested by court to make ascertainment of facts, but they may be requested to fulfil this duty also by private persons. Ascertainment of facts is highly frequent and constitutes one of the important activities of French bailiffs. Judicial officers may represent the parties in certain courts, e.g. in courts of trade and in the case of stoppage of payment of wages in courts of first instance.

They may give legal advice since they have the same qualifications as lawyers, notaries, and judges. In the course of winding up of certain companies, bailiffs may act as liquidators appointed by court after they have completed a special course of training. Subject to having acquired a preliminary authorization, they may pursue real estate agent or insurance agent activities as well.

3. Estonia

The Estonian term for bailiff is *Kohtutaiturid*. In Estonia, enforcement of court decisions and enforceable documents are carried out solely by *Kohtutaiturids*. They may serve documents and may carry out sale of property by auction. As from 1 March 2001, *Kohtutaiturids* are independent and self-employed. The profession and the process of becoming a bailiff are strictly regulated. They shall comply with professional, ethical, and disciplinary regulations. They are appointed by the Minister of Justice. They may not found a company but may pursue their activity on the same premises. Approx. 52 *Kohtutaiturids* operate divided into 16 regions of Estonia. They have territorial competence. In the region of Tallinn, 19 bailiffs work. Half of the bailiffs are women, their average age is 34. They are controlled by the department responsible for freelancing occupations within the Ministry of Justice.

In order to be a bailiff, a person shall have Estonian citizenship, immaculate morals, and a degree in law (numerous *Kohtutaiturids* have postgraduate doctor's degree and give lessons at a faculty) and shall take a bar examination.

This is followed by a 10 months' practice, during which they acquire theoretical and practical knowledge. Candidates are appointed by the Minister of Justice, after having meticulously examined the documents on the candidates.

Only *Kohtutaiturids* are competent in enforcing court decisions. In accordance with the provisions set out in the Civil Code, they are responsible for the entire execution proceedings. Clients may directly contact bailiffs, but only a *Kohtutaiturid* competent in the region may effect execution measures. They may carry out execution covering the total property of debtors, be it movable, corporate, or intellectual property.

Bailiffs are responsible for controlling execution measures. After having been given the consent of the party that requests execution, they effect the accepted execution procedures. In case of difficulties, they may request police help. Within the frameworks of the execution, *Kohtutaiturids* may request information directly from various registers, e.g. banking registers, property registers, and motor vehicle registers. Bailiffs work in accordance with determined tariff. Debtors shall bear the costs of execution. If the debtor is unable to cover the costs, they shall be paid by the applicant. Bailiffs are entitled to commission on collection, which is to be paid by the debtor. Bailiffs may serve documents, which shall be delivered personally to the addressee or the person found at the address. They may make a report on the form of service, which officially proves the fact of delivery. At present, Council Regulation (EC) No 1348/2000 on the service of documents is not applied. They do not perform collection of claims, do not represent the parties before court, and shall not perform any other activity. As part of the execution, bailiffs may carry out auctions and give legal advice. They do not make ascertainment of facts; this activity has not developed in Estonia yet.

4. Finland

The Finnish term for bailiff is *Ulosottomiehet*. Enforcement of court decisions and enforceable documents are carried out solely by them. They may sell the seized movable property in public auction.

Ulosottomiehet are employed by the Ministry of Justice and are not independent; they are appointed by the Minister of Justice. They shall comply with global professional, ethical, and disciplinary requirements. The process of becoming a bailiff and the bailiff's activity are strictly regulated. In Finland, approx. 1,500 persons engage in judicial execution: 85 *Ulosottomiehet* (bailiffs), 700 *Ulosottomiehetassistants* (deputy bailiffs), who implement most of on-site execution measures, and 700 office employees. This number is assigned to 70 Finnish regions of competence.

The Minister of Justice reviews execution measures but may not intervene in execution acts. Candidate bailiffs shall have a law degree and shall be qualified jurists. After that, they shall work as a deputy, and after several years they are appointed by the Minister of Justice.

The execution document will be sent to the bailiff competent in the region. The bailiff may carry out execution covering the total property of the debtor, be it movable, corporate, or intellectual property. Stoppage of payment of wages and blocking bank accounts are the most frequently applied procedures, contrary to seizure of movable property. Bailiffs are responsible for controlling execution measures. Bailiffs have direct access to all registers with respect to the total property of debtors. The costs of execution shall be paid by the debtor (procedural costs).

Solely in the course of execution do they deliver documents personally to the addressee or the person found at the address set out in the writ of execution. A written document certifies the fact of service of the document and later on will have demonstrative force.

Council Regulation (EC) No 1348/2000 on the service of documents is not applied. They do not collect debts and shall not pursue any other activity. Within the frameworks of execution, they may hold auctions and give legal advice. They do not make ascertainment of facts.

5. Austria

*Gerichtsvollzieher*s are solely competent in enforcement of court decisions, but service of documents is not only their duty. They do not make ascertainment of facts and value appraisal of movable property does not fall within their powers, just as sale of movable property by public auction; they may hold auctions only through court proceedings. They may not collect receivables in an amicable manner. They do not represent the parties in court.

Bailiffs are not self-employed; they are civil servants of the state. At present, no reform is in progress to create an independent status. In Austria, approx. 370 *Gerichtsvollzieher*s pursue activity, of which 10–15% are women. Their office is located within the court. They do not have employees. Their territorial competence is highly limited; one competent bailiff is assigned to each office competent in the territory. The profession is represented at national level by the *Österreichischer Gerichtsvollzieherbund*. Bailiffs are not obliged to join a chamber.

In general, *Gerichtsvollzieher*s are recruited from civil servants who work in the area of judicature; however, anybody can be a judicial officer. University degree is not required. They shall acquire 4 months of practice at a bailiff's office, and after that they shall work beside a bailiff for 2 months. *Gerichtsvollzieher*s are appointed by the Ministry of Justice. Solely judicial officers are competent in enforcement of court decisions. The Ministry of Finance and the municipalities have their own execution officers. Bailiffs may not be contacted directly with requests, only through the court. They may act with respect to debtors' movable property only in case of forced execution procedure; they are not competent in

the foreclosure of immovable property. *Gerichtsvollzieher*s control the course of execution but shall adjust to the client's instructions.

No data source is available to them for searching for the debtor's property, but they may oblige debtors to make a declaration of property; refusal to make a declaration or a false declaration will lead to penalty. Costs are borne by debtors; in case debtors are unable to pay costs, they shall be covered by the applicant. In addition to bailiffs, other persons may serve documents. *Gerichtsvollzieher*s deliver documents personally to the addressee. They may deliver documents also to other persons who are staying at the address (parent, friend, employee ...). If nobody can take over the document, bailiffs will leave a notice on the location and will leave the document in a sealed envelope at the administrative office, where they can be taken over by the addressee. At present, Council Regulation (EC) No 1348/2000 is not applied.

6. Belgium

Enforcement of court decisions is performed by *huissiers de justice* (F), *gerechtsdeurwaarders* (NL), and *gerichtsvollzieher*s (D). They may perform service of documents as well. They may make assessment of damages, may engage in appraisal of movable property and furniture, sales by auction. Amicable collection of receivables is allowed, but this activity is still in the process of being developed.

Bailiffs are official persons who are appointed by the King, upon the recommendation of the Minister of Justice. They operate independently and freely. The profession is strictly regulated by disciplinary and operational rules. The number of positions is limited. There are 517 Belgian bailiffs, including 63 women. They are assigned to relevant regions and are under the authority of courts. They can operate alone or in the form of a company. Most of the bailiffs pursue their activity alone. They employ approx. 2,700 persons. The profession is represented at national level by the organization *Chambre Nationale des Huissiers de Justice de Belgique*.

Candidates shall be Belgian citizens and shall have excellent morals, shall acquire a law degree (5 years). This is followed by a 2 years' practice at one or several bailiff's offices. After that, they shall take the examination (which is called registered examination); then they are appointed by the King upon the recommendation of the Minister of Justice. Candidates shall take on a job thereafter.

Solely bailiffs are responsible for enforcement of court decisions. They implement sequestration as well. Applicants may contact bailiffs competent in the region directly. Bailiffs may seize the debtor's total property, including their movable property and immovable property; however, sale of immovable property

by auction is not their duty. Bailiffs will decide the outcome of the execution on the basis of the creditor's instructions; problematic cases will be decided by a judge.

Bailiffs may acquire information on debtors' property, payment documents, data of immovable property and motor vehicles, movable property, and personal details; however, it is impossible to acquire certain documents.

Debtors shall pay for the services of bailiffs, and if this cannot be realized creditors will pay the costs. In the case of amicable execution, the parties will agree on the fee. Judicial officers perform service of documents. At present, the document that institutes the proceedings shall be served by the bailiff. Under the execution, they personally deliver the reproduced copy to the addressee. They may deliver the document to other persons who are staying there (parent, friend, employee ...) in the absence of the addressee. If nobody takes over the document personally, it will be left there in a sealed envelope. On the following working day, the bailiff will send the document signed by their own signature also by post, by registered mail to the addressee. If nobody can take over the document, a reproduced copy will be left at the police. In this case, a notice will be given to the addressee to enable them to receive the document.

Bailiffs may intervene in the service of judicial and extra-judicial documents both in commercial and civil matters, pursuant to Council Regulation (EC) No 1348/2000. Bailiffs may carry out amicable collection and forced settlement of receivables. This activity is being developed.

Applicants may contact bailiffs directly. First, they will take efforts to achieve amicable settlement, and if this brings no result they will acquire the necessary authorization from the judge for execution, with the assistance of a lawyer or the creditors. In the case of amicable execution, creditors will pay the costs, upon agreement made with the bailiff.

Bailiffs may carry out sale of property by auction and appraisal of seized movable property. They may make assessment of damages but solely in material respects. This makes up a considerable part of their activity. They may not represent the parties before court. They may give legal advice or fulfil other functions such as guardian ad litem, mediation of debts, or placement into judicial deposit.

7. Czech Republic

Enforcement of court decisions is performed solely by *Soudni exekutors* and employees of the court. They may serve documents and hold auctions. Bailiffs are independent and operate freely. There are approx. 113 bailiffs, including 30 women. They are appointed by the Ministry of Justice. They employ approx. 1,000 persons. The profession is regulated by strict disciplinary and operational rules. Bailiffs are represented at national level by *Exekutorska komora Ceske Republiky*.

Candidates shall be Czech citizens with an irreproachable past and shall have a law degree (to be obtained by five years' studies); then they shall participate in a three years' vocational practice. After that, they will be appointed by the Ministry of Justice. In the Czech Republic, a permanent optional training programme has been developed to prepare Czech bailiffs.

Enforcement of court decisions shall be the responsibility of *Soudni Exekutors* and employees of the court. Creditors may elect which of them should carry out execution. Creditors may contact *Soudni Exekutors* and may freely choose one of them. If a creditor requests a court employee, he/she will be chosen by the court.

Bailiffs may seize the debtor's total property, including movable and immovable property. Bailiffs are responsible for the outcome of the execution. They apply for preliminary authorization for implementing the execution, which requires approx. 15 days. On average, 130,000 execution proceedings are performed per annum. Reforms are going to be in place to enable bailiffs to act without preliminary authorization. If the execution is carried out by a court employee, they shall follow the judge's instruction.

Bailiffs may acquire information on the debtor's property, from social and tax authorities, banks, insurance companies, etc. They shall be bound by secrecy obligation with respect to this information. Bailiff's services are paid by the debtor.

Bailiffs may serve documents under the execution; in other cases, it shall be the duty of the post. They deliver documents personally to the addressee; if they cannot find him/her, they can deliver the documents to the person who is staying there. Bailiffs take minutes on delivery. At present, bailiffs do not apply Council Regulation (EC) No 1348/2000.

Bailiffs may not collect receivables. Bailiffs may carry out auctions under execution proceedings, may not make ascertainment of facts, may represent the parties before court under the execution, and may give legal advice to their clients. Bailiffs may not pursue any other activity.

8. Denmark

Enforcement of court decisions and enforceable documents shall be the responsibility of *Fogeds*, *pantefogeds*, or *told-og-skattefogeds* (hereinafter referred to as *foged*). They may perform service of documents. In certain cases, they may fulfil the judge's functions within municipal courts (*foged assistants*). They arrange for collection of debts to the State Treasury.

Fogeds are court employees. The head of *fogeds* is a senior judge appointed by the court; *fogeds* are appointed by the judge. The court is regulated by strict ethical, disciplinary, and professional rules. In general, *fogeds* are represented in

court by *retsassessors*. The approx. 1,850 *fogeds* are assigned to 82 Danish courts: more than half of them are women and approx. 450 are qualified jurists.

Their territorial competence corresponds with the territorial competence of the court. They are represented at national level by *Dommerfuldmaegtigforeningen*, but they are not obliged to join the organization. In order to be a *retsassessor*, a person shall be of legal age, shall have a law degree equal to the degree of judges. The 3 years' practice period is closed by an examination.

Fogeds must have overall knowledge of the civil law. Only *fogeds* may serve documents. The municipal court assigns the duty of service of documents to particular *fogeds*. They receive the fee for this service from the court. They may serve documents at a third party's request as well. They deliver the document personally to the addressee. They may deliver the reproduced copy of the document to a member of the family or an employee whom they find at the address. At places of work, they may deliver the document only to the employer. If the addressee refuses receipt, the document will nevertheless qualify as delivered. *Fogeds* take minutes on service of documents, which has demonstrative force.

In Denmark, Council Regulation (EC) No 1348/2000 is not applied. *Fogeds* do not collect credits, may not sell property by auction, may not make ascertainment of facts, do not give legal advice, and may not pursue any other activity.

9. Greece

The Greek term for bailiff is *Dikastikos Epimelitis*. Enforcement of court decisions and enforceable documents and service of judicial and extra-judicial documents is performed by them.

Bailiffs are self-employed and carry out their activity independently. They are appointed by the Minister of Justice. The process of becoming a bailiff and the bailiffs activities are strictly regulated. They shall comply with professional, ethical, and disciplinary requirements. The number of bailiffs is regulated by *numerus clausus*. There are approx. 2,100 bailiffs, including 800 women. Most of them work alone without employees. They have territorial competence in accordance with the court. They are represented at national level by the Greek Chamber of Judicial Officers.

It does not require a law degree to be a bailiff. Candidates spend a one-year practice period at a bailiff, and then attend a three-month seminar, and take an examination. After that, they are appointed bailiffs by the Minister of Justice. The profession organizes further training programmes carried out in seminars. Applicants may contact bailiffs directly, but execution proceedings will be implemented solely by a bailiff who is competent in the location of the execution.

Bailiffs may carry out execution measures covering the debtor's total property, be it movable, immovable, corporate, or intellectual property. Bailiffs are responsible for implementing the execution measures after consultation with the client. Bailiffs may request information from the property register and the motor vehicle register. The costs of the bailiffs' service shall be paid by the debtor, but in case the debtor is unable to do it, they shall be paid by the applicant.

Judicial and extra-judicial documents shall be served solely by judicial officers, except for documents received from abroad. Judicial officers deliver documents personally to the addressee. They may deliver documents to the person found at the address, the porter or the person whom they find at the debtor's place of work. In these cases, they post a notice to the door of the addressee's apartment, and on the first working day following this date they send the document by post and leave a copy at the local police. If the addressee disappears, the document will be served to the public prosecutor's office and two advertisements will be published in newspapers. Bailiffs take minutes on the service of documents, which later on may serve as evidence.

Bailiffs do not apply Council Regulation (EC) No 1348/2000. Documents received from abroad are forwarded by the Ministry of Justice. Bailiffs do not collect claims and may not pursue any other activity. They may sell property by auction under execution proceedings. They do not make ascertainment of facts, do not give legal advice, and may not represent the parties in court.

10. The Netherlands

Enforcement of court decisions and enforceable documents and service of documents is carried out exclusively by *Gerechtsdeurwaarders*. They may make ascertainment of facts and are entitled to collect receivables and may sell property by auction. *Gerechtsdeurwaarders* operate independently and freely. There are approx. 300 bailiffs, who are appointed by the Ministry of Justice. Approximately 200 offices are maintained for bailiffs, where 3,000 persons are employed. They may operate as self-employed persons or in the form of a company. The profession is regulated by strict disciplinary and operational rules. At national level, the profession is represented by the *Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders*.

Candidates shall be Dutch citizens with an irreproachable past and shall have a law degree followed by a four-year practice period. After that, they are appointed by the Dutch Ministry of Justice. A continuous training programme has been developed, which is going to be compulsory soon. Creditors may freely choose the locally responsible bailiff as they have national competence.

Bailiffs may seize the debtor's total property, including movable and immovable property. Bailiffs are responsible for the outcome of the execution proceedings; they act in co-operation with the creditor. They may set a term of payment for the debtor in agreement with the creditor. In problematic cases, they may seek intervention of the police.

Bailiffs may acquire information on the debtor's property from the GBA, which is a national database. They may obtain information from the Social Security authority, the debtor's employer, the Land Registry Office, the register of mortgages, Chambers of Commerce, the motor vehicle register, etc. The fee for the bailiff's services shall be paid by the debtor, and if the debtor is unable to do it, by the creditor.

Service of documents shall be the exclusive duty of bailiffs, except for tax matters. They deliver documents personally to the addressee or the person whom they find at the address or at the debtor's place of work. If nobody is able or willing to receive the documents, they will be left in a sealed envelope at the address. If the person has disappeared, they will be made public in a newspaper. Bailiffs take minutes on the service of documents, which serves as evidence unless forgery is proved. *Gerechtsdeurwaarders* are both "transmitting and receiving" agencies, i.e., they may transmit documents to another country and may serve documents received from another Member State.

Bailiffs may collect receivables, which amounts to 40–50% of their activity. Applicants may contact bailiffs directly and hand over documents to them for the purposes of execution. Bailiffs are responsible for the full procedure of the execution. First, they try to resolve the matter amicably, and if this cannot be implemented, they will apply forced execution.

The fee for collection of receivables shall be consulted and agreed upon with the creditor. Bailiffs may sell the debtor's movable property by auction, may make assessment of damages (which represents 2-3% of their activity), may represent the parties in court up to the amount of EUR 5,000, and may give legal advice. Bailiffs may not pursue any other activity.

11. Poland

The Polish term for bailiff is *Komornik Sadowy*. Enforcement of court decisions and service of documents are performed by them. Execution of court judgments is implemented exclusively by them. They may define the appraisal value of movable properties and may sell them by auction. They may make ascertainment of facts, but this is not typical. They do not collect debts out-of-court. They do not represent the parties in court. Bailiffs are judicial civil servants; they are appointed by the Minister of Justice. They have a self-employed status; they carry

out their work independently. The profession is regulated by strict disciplinary and operational rules. The number of bailiffs is limited. There are approx. 585 bailiffs in Poland, including +/- 30% women. They are self-employed and they employ approx. 6,000 persons. Bailiffs' area of competence covers the territorial competence of the district court. At national level, they are represented by the *Krajowa Rada Komornicza*. Judicial officers can be persons who have completed their law studies at a university (5 years), have performed a 2-year practice period at one or several bailiff's offices, and have taken bar examination. After that, they can apply for a vacancy. They are appointed by the Minister of Justice.

It is solely bailiffs who are entitled to enforce court decisions. They may implement safety measures. Regarding tax matters, the Ministry of Finance has its own tax collectors.

They may carry out execution proceeding covering the debtor's total property, be it immovable, movable, corporate, or intellectual property. However, sale of immovable property by public auction does not fall within their powers.

Creditors may elect execution measures to be taken, but only upon the bailiff's proposal. Bailiffs may request information from the register of citizens' addresses, the motor vehicle register, and the Land Registry Office. The fee for bailiffs' services shall be paid by the debtor, and if the debtor is unable to do it, by the creditor. Bailiffs may perform service of documents, but they do not have a monopolistic position in this respect. Bailiffs deliver documents personally to the addressee. They may deliver a copy of the document to other persons who are staying at the address (parent, friend, employee ...), persons found at the place of work, or a neighbour. If nobody can take over the document, the bailiff will leave a notice at the address, calling the addressee to take over the document at his/her office. They may post the notice at the mayor's office or may publish it in the press.

Council Regulation (EC) No 1348/2000 is not applied yet. Bailiffs do not collect debts. Bailiffs may sell movable property by court or voluntary public auction and may define their appraisal value. They may make ascertainment of facts, but this is highly rare. They may not represent the parties in court, may not give legal advice, and may not pursue any other activity.

12. Lithuania

Enforcement of court decisions is performed solely by *Antstolips*. They may proceed in the service of judicial and extra-judicial documents. They may make assessment of damages, may collect receivables amicably or by way of forced collection. They may sell movable property by auction, may represent the parties in court under certain conditions, and may give legal advice.

Lithuanian bailiffs are appointed by the Minister of Justice. They operate independently and freely. The profession is regulated by strict disciplinary and operational rules. There are 123 bailiffs, 50% of them are women. They are assigned to regions and are under the authority of courts, except for some faraway locations where there is a shortage of bailiffs. They may not operate in a company form. The profession is represented at national level by the *Antstolip Kontora*.

Candidates shall be Lithuanian citizens with irreproachable past and shall have a law degree (5-6 years). It is not compulsory to perform a practice period but it is necessary to spend five years in a position in an area of law or one year working with a bailiff. This is followed by an examination, and then they will be appointed by the Minister of Justice. Permanent, compulsory training will be provided for bailiffs and deputy bailiffs.

Enforcement of court decisions shall be solely the responsibility of *Antstolips*. Applicants may contact the bailiff competent in the relevant location directly and creditors may choose them freely. Bailiffs may seize the debtor's total property, including immovable and movable property.

Creditors decide the outcome of the execution, but implementation of the execution proceedings shall be the bailiff's responsibility. In problematic cases, they may seek intervention of the police. Bailiffs may acquire information on the debtor's property, payment documents, data of immovable property and motor vehicles, personal details, and banking data.

The fee for the bailiff's services shall be paid by the debtor in accordance with a fixed tariff, and if this cannot be implemented, the costs will be covered by the creditor. Bailiffs may serve documents; under the execution proceedings, they deliver documents personally to the addressee. They may deliver the document to other persons if the addressee is not present but only to members of family who have turned 18 years old. If the relevant person does not take over the document personally, bailiffs may leave a notice by registered mail. If the addressee has disappeared, the document will be left at the last known address by registered mail. In the case of amicable resolution of the dispute, bailiffs may deliver the notice only personally or to a member of the family. After that, the bailiff will make a memorandum on service of the notice, which shall be regarded as an official deed. Council Regulation (EC) No 1348/2000 is not applied by bailiffs.

Bailiffs may collect receivables in an amicable form or through court proceedings. This represents a considerable part of their activity. Applicants may contact bailiffs directly. First, they will make efforts to resolve the dispute amicably, and if this brings no result, they will obtain the necessary authorization for carrying out execution proceedings.

In case of forced seizure, they apply the legal tariff and in amicable execution they agree on the tariff.

Bailiffs may sell seized movable property by auction. As from 2003, since the profession has existed, bailiffs may make assessment of damages, may not represent the parties in court, only within the frameworks of execution proceedings. They may give legal advice and shall not fulfil any other function.

13. Luxembourg

Enforcement of court decisions and enforceable documents and service of documents is carried out solely by bailiffs. They may make ascertainment of facts, may define appraisal value of movable property, and may sell them by auction. They may collect debts out-of-court, whereas collection through court proceedings represents a considerable part of their activity. They do not represent the parties in court. Bailiffs are judicial civil servants who are appointed by the Grand Duke. They pursue their activity independently in a liberal form.

The process of becoming a bailiff and the bailiff's activity is strictly regulated. The number of positions is limited. In Luxembourg, there are 19 bailiffs, including 2 women. They may work alone or in the form of a company. They have an area of competence that belongs to district courts. In Luxembourg, there are only two court districts: Diekirch in the north and Luxembourg in the south. At national level, the profession is represented by the chamber of bailiffs. Candidates shall be citizens of Luxembourg with an irreproachable past and shall have a law degree (4 years). They shall perform a 1-year practice period at a bailiff's office and take an examination; after that, they may apply for a vacant job.

Bailiffs have sole competence in enforcement of court decisions and enforceable documents. They may implement official sequestration. In the course of judicial execution, bailiffs with district competence will act. Applicants may contact bailiffs directly. Bailiffs may carry out execution covering the debtor's total property, be it immovable, movable, corporate, or intellectual property. They may seize the debtor's movable property through court proceedings.

Sale of immovable property by public auction does not fall within their powers.

Bailiffs freely control the course of execution but shall adjust to clients' instructions in compliance with legal rules. In case of difficulties, the case will be decided by a judge. Bailiffs may request information from registers (by fax): may apply for information from population statistics, the trade register of companies, the motor vehicle register, and from the data of the social security authority (from the latter, solely upon a court decision). The fee for the bailiff's services shall be paid by the debtor, but if the debtor cannot cover them, the applicant shall pay for the execution. In case of collection, bailiffs are entitled to a fee to be paid by the relevant party. Service of judicial and extra-judicial documents is carried out solely by judicial officers. They deliver a copy of documents personally to the addressee

or the person found at the address (parent, friend, employee). If nobody is able to take over the documents, they will be left in a sealed envelope at the address and a photocopy will be sent by post. In accordance with the provisions set out in Council Regulation (EC) No 1348/2000, bailiffs also act as transmitting and receiving agencies, whereas the Chamber does not play any part in this respect.

Bailiffs may collect debts out-of-court. Currently, this is an important activity of bailiffs. Applicants may contact bailiffs directly and hand over documents to them. First, bailiffs will try to collect the debt out-of-court, and if this brings no result, they will request the judge to issue a payment order to enable bailiffs to implement the collection by court. Bailiffs do not represent the parties in court.

Costs of collection and service fees are paid by the applicant. Bailiffs have the opportunity to agree with the client in a contract on the amount of the service fee.

Bailiffs may define the appraisal value and carry out the sale of movable property by auction, but this is not a notable activity. Bailiffs do not give legal advice and may not pursue any other activity.

14. Germany

*Gerichtsvollzieher*s have exclusive competence in the enforcement of court decisions, but service of documents is not only their duty. They do not make ascertainment of facts. Value appraisal and sale of movable property by auction do not fall within their powers; they may sell property by auction only through court proceedings. They may not perform amicable collection of receivables. They do not represent the parties in court.

Bailiffs are not independent; they belong to *Lands*, provinces, and not to the federal state. At present, reforms are in progress to introduce the independent status. However, these reforms are just being developed. The profession and the process of becoming a bailiff is regulated by strict rules, the number of bailiffs is limited.

There are approx. 4,600 *Gerichtsvollzieher*s in Germany, including approx. 1,500 women. They can pursue their activity only on their own, but several bailiffs are allowed to work at the same office. They employ approx. 300 persons. They have territorial competence, which is highly limited. The profession is represented at national level by the *Deutscher Gerichtsvollzieherbund*. Bailiffs are not obliged to join the chamber.

In general, *Gerichtsvollzieher*s are recruited from civil servants working in judicature, but anybody can become a judicial officer. University degree is not required. Candidates are trained in programmes organized by the ministries of justice of various provinces, in preparatory classes necessary for pursuing the profession. *Gerichtsvollzieher*s are appointed by the Ministry of Justice of the relevant province.

Solely judicial officers are empowered to enforce court decisions. The Ministry of Finance and municipalities have their own execution officers. Applicants may contact bailiffs having competence in the region directly.

Bailiffs may proceed with regard to the debtor's movable property only in case of forced execution; they are not authorized to carry out foreclosure of immovable property.

*Gerichtsvollzieher*s control the course of execution but shall adjust to clients' instructions. They have no data source available to them for searching for the debtor's property, but they may oblige the debtor to make a declaration of property; refusal to make the declaration or making a false declaration will lead to penalty. Costs are borne by the debtor, and if the debtor is unable to pay them, they will be covered by the applicant.

Service of documents may be carried out by persons other than bailiffs. *Gerichtsvollzieher*s deliver documents personally to the addressee. They may deliver documents to the persons who are staying at the address (parent, friend, employee ...). If nobody is able or willing to take over the documents, they will be left in a sealed envelope at the address of the addressee or at the office of the court of justice. At present, Council Regulation (EC) No 1348/2000 is not applied; however, bailiffs hope that after obtaining independent status they will be able to act in accordance with the above Regulation. Bailiffs may collect credits under judicial execution, which is limited to 6–12 months. They may not perform amicable collection of credits. They do not give legal advice and shall not make ascertainment of facts or carry out any other activity.

15. Italy

The Italian term for bailiff is *Ufficiali Giudiziari*. Enforcement of court decisions and enforceable documents shall be the bailiff's duty. Creditors of public law debts and banking concessionaires may also implement execution against debts payable to the bodies represented by them. *Ufficiali Giudiziari* are civil servants of the Ministry of Justice, are employed by the courts, and are given instructions directly by the judge. They shall comply with professional, ethical, and disciplinary regulations. Plans are in place to develop an independent and autonomous body of bailiffs. The profession is represented at national level by the *Unione Italiana Ufficiali Giudiziari*.

No special legal qualification is required for becoming a bailiff. The Ministry of Justice recruits candidates and appoints them bailiffs. *Ufficiali Giudiziari* have competence to enforce court decisions, except for debts payable to creditors of public law debts and banking concessionaires; the latter collect such debts through their own officers.

Documents are delivered by the judge to the competent bailiff. Applicants may not contact bailiffs directly. In case of eviction, the lawyer of the entitled party will send the document directly to the bailiff. Bailiffs may implement execution covering the debtor's total property, be it corporate or intellectual property (seizure of movable property, blocking bank accounts).

Bailiffs are responsible for the entire process of the execution measures but are given instructions directly by the judge. It is the judge who decides on suspension of measures. Bailiffs may not receive information with regard to the debtor's property from registers. The costs of bailiffs' services shall be paid by the court. Bailiffs may serve judicial and extra-judicial documents, but this does not mean a monopolistic position since lawyers and court employees are also allowed to serve documents.

Bailiffs deliver documents personally to the addressee. They may deliver documents to another person whom they find at the address. In this case, they send a letter by registered mail with receipt of delivery requested to the address of the addressee. They will leave a copy of the document at the local police. If they do not find the addressee, they will post a notice at the court of the last known address and publish an advertisement in the local newspaper of the settlement of the debtor's place of birth. At present, bailiffs do not apply Council Regulation (EC) No 1348/2000. They do not collect debts, may not sell property by auction, do not make ascertainment of facts, may not represent the parties in court, and shall not pursue any other activity. Solely in the frameworks of execution proceedings are they authorized to give legal advice.

16. Portugal

Enforcement of court decisions and enforceable documents is implemented solely by *Solicitadores de execucao*. They also serve judicial and extra-judicial documents. In civil cases up to EUR 3,750, subjects-at-law may entrust bailiffs to make division of property, prepare documents for the notary public, give advice in tax matters, and apply for registration of mortgage. Also, they may act as secretary of business associations to attest documents. They have pursued the profession since September 2003.

Bailiffs are appointed by the *Camara des Solicitadores*. They operate independently and freely. The profession is regulated by strict disciplinary and operational rules. Application is strictly regulated. There are 430 *Solicitadores de execucao*, including 55 women. They are assigned to regions, except for a few faraway locations such as the Islands of Acores or Madeira, where there is a shortage of bailiffs. They may operate both alone and as an organization. Plans are in place to enable them to set up companies in the future. The area of

competence of bailiffs covers the area of competence of courts, providing that in certain cases the area of competence can be extended. At national level, the profession is represented by the *Camara des Solicitadores*.

Candidates shall be Portuguese citizens with irreproachable past and shall have a law degree (minimum 3 or 5 years). After that, they work as candidates for one and a half years and as *Solicitadors* for 3 years, which is followed by 6 months of specialization. After that, they shall take a bar examination. They are appointed by the *Camara des Solicitadores*. The profession provides optional further training programmes, which are attended by lots of bailiffs.

Enforcement of court decisions shall be the exclusive responsibility of bailiffs. In tax matters, experts specialized in this field will proceed. Applicants may contact directly bailiffs competent in the region. Bailiffs may seize the debtor's total property, including movable and immovable property. If execution is carried out with respect to bank accounts, preliminary authorization from the judge shall be requested. Bailiffs are responsible for the outcome of the execution proceedings; in problematic cases, they may seek intervention by the police. They may grant a respite for payment to the debtor with the creditor's consent.

Bailiffs may obtain information on the debtor's property, payment documents, data of movable property and motor vehicles. They may acquire information on bank accounts, taxation matters and other protected documents only with the authorization of the judge. The fee for bailiffs' services shall be paid by the debtor, and if this cannot be realized, by the creditor.

Bailiffs may carry out service of judicial and extra-judicial documents. Under execution proceedings, documents may be served only by them. They deliver the document personally to the addressee. They may deliver the document to other persons at the address, a neighbour or the porter. If nobody takes over the document personally, they will leave a notice calling the addressee to take over the document at the office of the *Solicitador*. Within two days, they will send the document by registered mail. If the addressee has disappeared, they will publish the document in a local newspaper and will leave a copy at the mayor's office as well as at the last known address of the addressee. After that, the bailiff will make a memorandum on service of the document, which is deemed an official deed. Council Regulation (EC) No 1348/2000 is not applied, but they have taken steps to enable *solicitadors* to act as transmitting and receiving agencies.

Bailiffs may collect receivables out-of-court and through judicial execution. However, once they have agreed on amicable settlement, they may not switch to execution by force. Applicants may contact bailiffs directly. First, bailiffs will make efforts to resolve the case out-of-court, and if this brings no result, they will do everything in order to issue an enforceable document. In the case of collection out-of-court, bailiffs can freely agree on the service fee with the client. In the case of forced execution, they work on the basis of a tariff.

Bailiffs may sell property by auction, may not make ascertainment of facts, may represent the parties in court, and may give legal advice under execution proceedings. Bailiffs may fulfil several functions: they may proceed in civil cases up to EUR 3,750, may make divisions, may be secretaries of business associations, may prepare files for the notary public, may give advice in tax matters, etc.

17. Spain

Collection of debts, service of documents and enforcement of court documents are performed by officers of several professions. Execution shall be controlled and performed by the judge, but usually he/she assigns this task to an *Agente judicial* (court official). Also, the judge may assign this task to a *secretario judicial* (court secretary). Documents are prepared for lawyers and are submitted to the court by a *procurador*. A reform is in progress to enable *procuradores* to enforce court decisions. Under the assignment of the judge, *Secretarios Judiciales* carry out service of documents, but this task can be fulfilled also by *procuradores*.

Agentes judiciales, *Oficiales*, and *Auxiliares* are court employees. *Procuradores* are independent and have an independent status. Candidates for *procuradores* shall comply with strict requirements. *Procuradores* shall adhere to ethical, disciplinary, and professional rules.

There are approx. 8,900 *procuradores*, of whom 60-70% are women. (1 *procurador* falls on approx. 4,500 inhabitants). With a few exceptions, bailiffs have limited powers on the area of competence of *Partidos Judicial*. (*Partidos* are territorial units and consist of one or several neighbouring settlements that belong to the same province). At national level, the profession is represented by the *Consejo General de Procuradores*.

To be a *procurador*, a person shall be a Spanish citizen with irreproachable past and shall have a law degree (4 years university). Bailiffs are appointed by the Minister of Justice. Plans are in place to organize further training programmes for *procuradores* and their employees.

At present, execution is generally performed by the *Agente judicial* who belongs to the *Partidos Judicial* of the location of the execution, after this task has been assigned to them by the judge. Over EUR 900, solely *procuradores* are entitled to act in enforceable matters; they may also sell property by auction under execution proceedings.

Parties applying for execution or their lawyer shall first request the judge to issue various execution documents, which are implemented possibly with the assistance of a *procurador*. Notices to the debtor are usually written by the *Secretario Judicial*, whereas execution measures are implemented by the *Agente Judicial*.

Execution may be implemented with regard to the debtor's total property (movable/immovable, corporate/incorporeal property), except for assets exempt from execution. It shall be the judge's responsibility to conduct the execution proceedings, by assigning scopes of tasks to the rest of court officials. Apart from a few exceptions, the judge will adopt an executive order calling the debtor to make a declaration on his/her property. In case of failure to make this declaration, the debtor may be fined. The *Agente judicial* responsible for seizure may request information from various offices on the debtor's property. The costs shall be covered by the debtor, and if the debtor is unable to do it, by the applicant.

Procuradores may serve documents to the parties if they are represented by them during the proceedings. In other cases, they will send documents by post with or without receipt of delivery requested.

If there is no evidence that the debtor has taken over the document, it may be delivered personally in court or at the debtor's address. Documents may be delivered to any person who is staying at the debtor's address. If nobody is able or willing to take over the document, a notice will be published in the Official Gazette. If the debtor's address is not known, they will implement search for address, post a notice in court and possibly in an official journal. *Procuradores* will take minutes on service of documents; the form of such minutes is determined in law and shall have demonstrative force later on.

With respect to the provisions set out in Council Regulation (EC) No 1348/2000, the *Secretarios Judiciales de los distintos Juzgados y Tribunales* shall be a transmitting agency and the *Secretario Judicial del Juzgado Decano* shall be a receiving agency.

Collection of debt may be carried out by the bailiff, who can be contacted for these purposes directly; the fees can be determined freely. Bailiffs do not sell property by auction, do not make ascertainment of facts, and do not pursue any other activity.

Procuradores may represent the parties, which is their main activity, and may give legal advice.

18. Scotland

In Scotland, there are two types of bailiffs: *Messengers-at-Arms* (*Supreme Court enforcement officers*), who are under the control of the Supreme Court, and *Sheriff Officers* (*Local Court enforcement officers*), who are under the authority of Local Courts. Enforcement of court decisions are carried out solely by them. They may serve judicial and extra-judicial documents and may sell property by public auction at the debtor's domicile. *Messengers-at-Arms* and *Sheriff Officers* are appointed by the Senior Sheriff.

Scottish bailiffs operate independently and freely. The profession is regulated by strict disciplinary and operational rules. There are 163 Scottish bailiffs (one bailiff falls on approx. 31,000 inhabitants); they may operate alone or in the form of a company. At present, there are 24 companies; 9 female bailiffs are registered in the profession. *Messengers-at-Arms* and *Sheriff Officers* have territorial competence, which corresponds to the territorial competence of the court. At national level, the profession is represented by the Society of Messengers-at-Arms and Sheriff Officers, but it is not compulsory to join it.

Candidates are appointed by the Senior Sheriff. The profession regularly organizes further training programmes; attendance will be compulsory in the future. Candidates shall be British citizens with irreproachable past and shall complete a 3 years' practice period at a bailiff's office and take an examination after that, organized by the Society of Messengers-at-Arms and Sheriff Officers.

Enforcement of court decisions and enforceable documents shall be solely the responsibility of *Messengers-at-Arms* and *Sheriff Officers*. They may implement forced execution with regard to the debtor's assets. Applicants may contact the bailiff with territorial competence directly.

Bailiffs may seize the debtor's total property, including movable and immovable property. Bailiffs are responsible for the outcome of execution; if it is required by law, they shall request the authorization of the judge and instructions for taking measures.

Bailiffs may not acquire information on the debtor's property. The fee for the bailiff's services shall be paid by the debtor, and if this cannot be realized, the costs and fees shall be covered by the creditor. Bailiffs or deputy bailiffs serve documents; they deliver documents personally to the addressee. Documents may be forwarded also by other persons (lawyers, solicitors) but only by registered mail. Documents may be delivered to other persons when the debtor is not present. If such a person does not take over the document personally, the document may be left in their post-box; however, a copy will be sent by post. After that, bailiffs will take minutes on service of documents, specifying their name and address and the date and form of delivery. The minutes shall be valid if the bailiff is a member of the Society of Messengers-at-Arms or Sheriff Officers.

In accordance with Council Regulation (EC) No 1348/2000, bailiffs shall qualify as transmitting and receiving agencies, together with Accredited Solicitors. Bailiffs may not collect receivables; however, they may set up companies for these purposes. Such companies operate mainly in large cities. Negotiations are in progress to enable bailiffs to act in amicable collections.

Applicants may contact bailiffs directly. The fees for collection vary depending on competition. Bailiffs may sell property by auction at the debtor's domicile, may make assessment of damages, but this is not a typical activity. They may represent the parties in court under execution proceedings. They may give legal

advice also under execution proceedings. Bailiffs shall not pursue any other activity as a bailiff.

19. Sweden

Enforcement of court decisions shall be carried out solely by *Kronofogdes*. They may serve judicial and extra-judicial documents and may sell movable and immovable property by public auction.

Kronofogdes are employees of the State. The profession is regulated by strict disciplinary and operational rules. There are 260 *Kronofogdes* (more than half of them are women); they employ a total of 2,900 employees. Until the end of 2006, bailiffs belonged to 10 regional bodies; from 1 July 2006, there is one national execution authority (*Kronofogdemyndigheten*). This authority is independent in terms of execution, but administratively it depends on the national tax authority. However, from 2008, it will be administratively independent. Its seat is in Stockholm. Execution is divided into 5 regions and each of them has its own responsible official. Bailiffs may join the Swedish Chamber of Judicial Officers.

Candidates shall have a Master of Laws degree or a degree equivalent to it acquired in Denmark, Finland, Iceland, or Norway. After that, they will be employed by one of the 5 regional offices of bailiffs. Candidates will attend another 1-year education programme. During this period, they study mainly the practical aspects of execution. Theoretical studies take only 5 weeks within the 1-year training course. After its completion, candidates will be appointed bailiffs.

Only bailiffs are entitled to enforce court decisions and enforceable documents. In the case of debts to the State, executive bodies may apply to court seeking institution of bankruptcy proceedings or revision of invoices. From 2008, this right will be transferred to the office of State Treasury, and from that date there will be no difference between debts to the State and private debts.

Applicants may not contact bailiffs directly. They shall apply to one of the 5 regional executive bodies, which decides who shall be responsible for the case. Documents will be handled by the regional body of the domicile of the debtor.

Bailiffs may implement execution covering the debtor's movable/immovable property. Bailiffs shall have responsibility for execution measures. Applicants seeking execution proceedings shall be continuously informed. If necessary, bailiffs may request help from the police. In the case of debts payable to the State, bailiffs may grant a respite of payment. In the case of private persons, bailiffs shall first ask for the consent of the applicant seeking execution for such respite of payment.

Bailiffs may request information on the debtor's property. Debtors and any third parties shall be obliged to supply information to bailiffs on the debtor's property. Bailiffs may request information from electronic registers (motor vehicles, real

estates, bank accounts, wages). Plans are in place to enable bailiffs to receive data electronically; an electronic system is being developed, but use of paper format documents is the typical procedure.

Costs are covered by the debtor. If the debtor is unable to pay, costs will be paid by the applicant. Bailiffs carry out service of documents, but in most of the cases courts send documents by post. In general, documents are served under forced execution proceedings.

Bailiffs deliver documents personally to the address. Documents may be delivered to other persons at places of work and at the address. If nobody is able or willing to take over the documents after several attempts, they may be left at the address, may be sent by post, or a notice will be published in a newspaper. If there is no known home address, the notice will be published in a newspaper. Bailiffs make a written document on the circumstances and conditions of delivery of documents, the legal validity of which is deliberated by the judge.

Pursuant to Council Regulation (EC) No 1348/2000, bailiffs shall qualify as transmitting agencies (i.e., they may transmit the documents to another Member State). The receiving agency shall be the Ministry of Justice (responsible for having served documents received from abroad).

Bailiffs do not collect receivables out-of-court; they implement only judicial collection procedures under certain conditions.

Applicants may request extensive and a narrower scope of proceedings with respect to the debtor's property. They shall pay SKR 500 in the case of a narrower scope of proceedings and SKR 1,000 for extensive proceedings. From 2018, there will be only one proceeding, but its fee is not determined yet. It might include the fees for transport and storage in case of movable property, which shall be paid by the creditor if the debtor is unable to.

Bailiffs may sell the debtor's movable and immovable property by auction. In addition to auction, sale may be carried out by other means (sale entered into by arrangement; sale entered into by the assistance of real estate agent).

Bailiffs may not make ascertainment of facts, do not represent the parties in court, and may give legal advice only under execution proceedings.

They may pursue other activities; so, they may file a claim to the competent court seeking issuance of payment order; they may engage in resolution of debts of private persons; they may pursue and disseminate preventive policy through information campaigns in order to prevent debts.

20. Slovakia

Enforcement of court decisions and enforceable documents is implemented by bailiffs, i.e., *Sudni exekutori*.

They are independent and have independent status. At present, there are 252 bailiffs, who are appointed by the Minister of Justice. They have national territorial competence. They employ approx. 1,000 persons. One fourth of the bailiffs are women. In their work, they shall comply with disciplinary, professional, and ethical rules. They shall take out professional liability insurance. At national level, they are represented by the chamber of bailiffs (*Chambre nationale des Sudni exekutori*). Candidates shall have a second-level (master's) law degree (5 years' law studies) and shall complete a 2-year professional practice period. The profession organizes optional further training programmes for bailiffs and their employees. Applicants may contact bailiffs directly; bailiffs have national territorial competence. Bailiffs are responsible for the process of execution; they choose execution measures after having consulted with the creditor.

Bailiffs may request information on the debtor's property from approx. 25 institutes: the central bank, the social security authority, the register of motor vehicles, etc. Data shall be requested in writing and response will be received in approx. 3 weeks.

Bailiffs may serve documents, but they are not in a monopolistic position. They deliver the documents personally to the addressee; if they do not find the addressee, they will send a letter to him/her within the shortest time. Costs of the execution shall be paid by the debtor. Bailiffs may ask for advance payment to cover the foreseeable costs of the execution proceedings.

Council Regulation (EC) No 1348/2000 is not applied, i.e. service of foreign documents is not implemented by bailiffs. These documents shall be sent to the International Private Law and Co-operation Department of the Ministry of Justice of Slovakia. Bailiffs collect receivables. Applicants may contact bailiffs directly and may request collection of claims. The costs thereof shall be negotiated freely with the creditor.

Bailiffs may sell property by auction but do not make ascertainment of facts. They do not represent the parties in court. They may give legal advice only in relation to execution proceedings. They shall not pursue any other activity.

21. Slovenia

The term for bailiff is *Izvršiteljica*. Bailiffs implement enforcement of court decisions and enforceable documents. They share this activity with bailiffs employed by the court, who are appointed by the judge.

Since 1998, the bailiffs' profession has been independent and autonomous. The profession and the process of becoming a bailiff are strictly regulated. The bailiffs' activity is controlled by courts. Ethical, disciplinary, and professional rules are being developed. Bailiffs are represented by the chamber of bailiffs.

To become a bailiff, a person shall have a law degree equal to the diploma of judges. They shall take a bar examination. They are appointed by the Minister of Justice. After having been appointed, bailiffs shall take examination again in every 4 years. If they fail at the examination, they will be relieved from service. They are controlled by the judge, who assigns the documents to bailiffs having territorial competence. At the same time, creditors may specify in court which bailiff they elect. Bailiffs may implement execution covering movable property and immovable property that has not been registered. Bailiffs are responsible for execution measures, but they shall give account of the measures taken by them to the court and the creditor. With respect to the debtor's property, they may request information only under the control of the judge. The costs of bailiffs shall be paid by the debtor. Bailiffs may serve documents in the manner it is implemented by courts.

They send documents by post or deliver them personally. Pursuant to the provisions set out in Council Regulation (EC) No 1348/2000, the district court shall act as transmitting agency. Bailiffs do not collect debts, do not sell property by auction, do not represent the parties in court, do not give legal advice, and shall not pursue any other activity.

References

- BALOGH, O.–KOREK, I.–CSÁSZTI, F.–JUHÁSZ, E. 2009. *A bírósági végrehajtás*. Budapest.
- BESKEN, M. 2013. *Das Reform des Zwangsvollstreckungsrechts*. Freiburg.
- BUNGE, J. 2008. *Zivilprozess und Zwangsvollstreckungsrecht in Frankreich und Italien*. Berlin.
- JAUERNIG, O.–BERGER, C. 2010. *Zwangsvollstreckung- und Insolvenzrecht*. München.
- KAPA, M.–VERESS, E. (eds). 2009. *Határozatok végrehajtása határokon átívelő polgári és kereskedelmi ügyekben az Európai Unióban*. Budapest.
- KORMOS, E. 2002. *Alapelvek a bírósági végrehajtási eljárásban*. PhD Thesis. Miskolc.
- LIPPROSS, O. G. 2014. *Zwangsvollstreckungsrecht*. München.
- PATAKI, J. I. 2013. *A végrehajtó és az adós*. Budapest.
- PESTOVICS, I. 2010. *Bírósági végrehajtás*. Budapest.
- SEIBEL, M.–GROTHE H.–HARBECK, N. 2013. *Zwangsvollstreckungsrecht aktuell*. Baden-Baden.
- STAMM, J. 2007. *Die Prinzipien und Grundstrukturen des Zwangsvollstreckungsrechts*. Tübingen.