
Enforcement Procedure in the Republic of Serbia in the Context of Protecting the Rights of Parties in the Procedure

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Article Information*

Review Article • UDC: 347.952(497.11)

Volume: 22, Issue: 1, pages: 137–147

Received: February 17, 2025 • Accepted: April 11, 2025

<https://doi.org/10.51738/kpolisa.2025.1r.010>

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I have no known conflict of interest to disclose.

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* Cite (APA): Bukazić, D. (2025). Enforcement Procedure in the Republic of Serbia in the Context of Protecting the Rights of Parties in the Procedure. *Kultura polisa*, 22(1), 137–147, <https://doi.org/10.51738/kpolisa.2025.1r.010>



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Abstract

The enforcement procedure in the Republic of Serbia represents a key legal mechanism for the realization of creditors' rights and the execution of court decisions, playing a significant role in maintaining legal certainty and market stability. However, it is equally essential that this procedure is conducted with respect for the fundamental human rights of debtors and other participants in the process to ensure a fair balance between competing interests. This paper analyzes the fairness of the enforcement procedure through the lens of protecting the rights of the parties, with particular emphasis on the application of international and domestic legal standards. The research focuses on key human rights, including the right to a fair trial, the right to peaceful enjoyment of property, the right to privacy and family life, and the right to a home, exploring their application and protection within enforcement proceedings. The rights of parties and participants in enforcement procedures are ensured through numerous legal mechanisms, including the right to appeal, the possibility of third-party objections, and the principle of proportionality in enforcement. These principles aim to guarantee a fair procedure while respecting human rights, thereby maintaining a balance between protecting the interests of creditors and the rights of debtors. Additionally, the paper examines the principle of debtor protection, which, although not explicitly prescribed by the Law on Enforcement and Security, plays a crucial role in ensuring the fairness of the procedure.

Keywords: Enforcement procedure, rights of parties, rights of participants, fair trial, right to peaceful enjoyment of property.

Introduction

The enforcement procedure represents the final phase of the legal process, in which the rights established by an enforceable or credible document are realized. It is the last and, at the same time, the most significant phase in the process of protecting violated or endangered subjective civil rights (M. Kulazov, 2019, p. 866). Enforcement means placing matters in their necessary position within the legal order (B. Blagojević, 1936, p. 137). To prevent previously recognized and established rights from remaining merely words on paper, the law must regulate the enforcement procedure in cases where the debtor is unwilling to voluntarily fulfill their obligation. In the Republic of Serbia, this procedure is governed by the Law on Enforcement and Security (Zakon o izvršenju i obezbeđenju, 2015), hereinafter referred to as the LES.

The protection of parties' rights is crucial in enforcement proceedings because these procedures are urgent and expedited, with no possibility of extraordinary legal remedies. The restoration to the previous state is only allowed if the deadline for filing a legal remedy against the enforcement decision has been missed, and the decision on this matter is made by the court competent to rule on legal remedies against enforcement decisions. The court and the public enforcement officer are restricted by the principle of formal legality. The essence of this principle is that neither the court nor the public enforcement officer may engage in assessing whether a claim established by an enforceable document exists. This issue has already been addressed in previous litigation or another type of proceeding, where, with all procedural

guarantees in place, the existence of the claim was determined, or a settlement was reached as the parties opted for an amicable dispute resolution (R. Keča, 2012, p. 160). The enforcement court is not authorized to interpret the enforceable document (Commercial Appellate Court, IŽ. 662/20). The essence of enforcement proceedings is to execute enforcement as stipulated in the enforceable or credible document, ensuring that the enforcement creditor is satisfied as fully and quickly as possible while respecting legal limitations and the rights of the enforcement debtor. The creditor must not receive less than what they claim, while the debtor must not be deprived of more than what they owe (A. Jakšić, 2022, p. 882).

Parties in the Enforcement Procedure

The parties in the enforcement procedure are determined based on the content of the enforceable document. Most often, these are the plaintiff and the defendant (in a civil procedure) or formal participants (in non-contentious proceedings) from a cognizant procedure (A. Jakšić, 2022, p. 899). The parties in the enforcement procedure must be clearly defined, as it must always be known for whose benefit and against whom the enforcement is carried out. If this is not the case, the enforceable document is not suitable for enforcement, and the court will reject the enforcement proposal (A. Jakšić, 2022, p. 899).

The enforcement procedure in the Republic of Serbia is based on a two-party structure, in which the enforcement creditor and the enforcement debtor appear as the parties (J. Ujdehag, S. Ginzburg, K. Popov, B. Bengtson, M. Milošević, N. Bodiřoga, 2014, p. 122). The enforcement creditor is the active party. This is the person who requests the enforcement because the debtor has not voluntarily fulfilled the obligation. The enforcement debtor is the passive party, that is, the person against whom the enforcement is carried out, as they have failed to comply with the obligation.

Principle of proportionality

The goal of the enforcement procedure is the lawful and efficient satisfaction of the enforcement creditor's claim while respecting the rights of the enforcement debtor (N. Bodiřoga, 2023, p. 267). The amount of the enforcement creditor's claim determines the choice of enforcement means and the subject of enforcement. The public enforcement officer is required to take into account the proportionality between the amount of the debtor's obligation and the means and value of the enforcement subject when selecting the enforcement means and subject for the satisfaction of a monetary claim. The principle of proportionality is an ideal of enforcement law, which affirms the idea of finding a balance between the rights of the enforcement creditor and the obligations of the enforcement debtor (N. Šarkić, D. Radulović, M. Počuća, 2019, p. 38).

The principle of proportionality can only be applied if there are multiple available means and subjects of enforcement (N. Bodiřoga, 2023, p. 268). This principle will not be applied if the debtor, in the form of a public or legally certified document, has agreed to the enforcement being carried out with a specific means and on a specific subject of enforcement, or if it is unequivocally determined that there is only one means and one subject of enforcement from which the creditor's claim can be satisfied (USRS, UŽ.883/2014, 2016). The existence of disproportionality gives the enforcement debtor the opportunity to propose that enforcement be carried out with another means of enforcement, which is sufficient to satisfy the creditor's claim (Higher Court in Čačak, GŽ.761/11, 2011).

The public enforcement officer, by decision, ex officio or upon the party's proposal, in cases where the enforcement decision specifies multiple means and subjects of enforcement, will limit the enforcement to only those means and subjects that are sufficient to satisfy the enforcement creditor. Additionally, the public enforcement officer is obligated to, ex officio or upon the party's proposal, change the already determined means and subject of enforcement by decision if there is an obvious disproportionality between the chosen means and subject of enforcement and the amount of the enforcement creditor's claim. If the public enforcement officer violates the principle of proportionality, it constitutes a more serious disciplinary violation.

Principle of protection of the enforcement debtor

This principle is not explicitly prescribed by the current law but permeates the entire enforcement procedure. It implies the enforcement debtor's right to legally secure the protection of their interests. In order to protect the enforcement debtor, they must be treated humanely. The humanity of the procedure is reflected in the fact that the enforcement must be carried out in the most appropriate way and with the least consequences for the debtor and their family members (N. Šarkić, D. Radulović, M. Počuča, 2019, p. 53).

When it comes to the enforcement of movable property, the Enforcement and Security Act (ZIO) provides for the exclusion of certain categories of movable property from enforcement, particularly when it comes to items necessary for the debtor's and their family's survival. The law also establishes limitations on what can be subject to enforcement, including in cases where the enforcement is carried out on the debtor's receivables.

Regarding the enforcement of immovable property, the law provides dual protection. At the first public auction, the immovable property cannot be sold for less than 70% of its estimated value (starting price). At the second public auction, the starting price is 50% of the estimated value.

The second form of protection is that the enforcement cannot be carried out through the sale of the debtor's only immovable property to satisfy a claim whose principal amount does not exceed €5,000.00 in dinar equivalents, based on the middle exchange rate of the National Bank of Serbia on the day the enforcement proposal is submitted. This provision applies only to natural persons and not legal entities.

The law also provides for the protection of the debtor from enforcement on property that is considered not only essential for life but also necessary for preserving human dignity. This is particularly important in the context of reducing the economic and social stress on the enforcement debtor.

Applicable implementation of the right to a fair trial in the enforcement procedure in the Republic of Serbia

The right to a fair trial is protected by the European Convention on Human Rights (ECHR), which serves as a cornerstone for legal protection of human rights in Europe. Article 6 of the ECHR reads: "Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The judgment shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order, or national security in a democratic society, where this is necessary to protect the interests of minors or the protection of the parties' private

life, or to the extent considered strictly necessary by the court in the particular circumstances where publicity would prejudice the interests of justice."

The right to a fair trial does not only imply a fair outcome but also a fair process, which must be respected at all stages of the proceedings, including in the enforcement procedure.

In enforcement procedures, we refer to an "inherent right," i.e., the right to enforcement within a reasonable time. The parties and participants in the procedure must have the opportunity to use legal remedies. Enforcement must be carried out without unnecessary delays (N. Bodiroga, 2023, p. 28). The right to a trial within a reasonable time in enforcement proceedings is primarily guaranteed to the enforcement creditor, ensuring that enforcement is conducted in the shortest possible time. However, exceptionally, the enforcement debtor is also guaranteed the right to a trial within a reasonable time when decisions are made about their rights and obligations (USRS, Už.6995/20, 2022).

Delays in enforcement are allowed only as an exception. It is necessary for the enforcement debtor to prove that, due to enforcement, they would suffer irreparable or significantly compensable damage, which is greater than the damage the enforcement creditor would suffer due to the delay. The delay must be justified by special reasons, proven by a public or legally certified document. Additionally, at the request of the enforcement debtor, it is not possible to require the deposit of a guarantee if it would lead the debtor or their family members into severe poverty.

Parties and participants in the enforcement procedure must have the possibility to use legal remedies. If a party submits a legal remedy in the enforcement procedure and the remedy fulfills all procedural prerequisites for a substantive decision, it is the duty of the competent court to decide on this legal remedy or to comment on its validity (N. Bodiroga, 2023, p. 33). The ZIO provides for the legal remedies of an appeal and objection, which have a suspensive effect only when prescribed by law. An appeal challenges the decision of the first-instance court or the public enforcement officer unless the law specifies that an appeal is not allowed or that such a decision can be challenged by an objection.

An objection can be filed against the decision of the first-instance court or the public enforcement officer only when prescribed by the law and as an objection by a third party. An appeal can be filed against the decision regarding the objection only when prescribed by law. No objection or appeal can be filed against a ruling. Objections or appeals filed against a ruling are rejected in a decision or ruling that ends the enforcement procedure. Thus, the decision of the enforcement judge to merge proceedings is legally considered a ruling against which no legal remedy is allowed (Commercial Appellate Court, Iž.785/17, 2017).

An incorrect instruction by the court regarding a legal remedy does not grant the party the right to file a legal remedy, as the permissibility of a legal remedy against a decision regarding an objection in the enforcement procedure is strictly defined (Commercial Appellate Court, Iž.1467/20). An incorrect instruction regarding the legal remedy contained in the decision on enforcement based on a verifiable document cannot be to the detriment of the enforcement debtor and their right to file a legal remedy, an objection (Commercial Appellate Court, Iž.190/16, 2016).

Our law explicitly prohibits extraordinary legal remedies against final decisions, meaning that revision and retrial are not allowed. However, restoration to the previous state is allowed if the deadline for filing a legal remedy against a decision on enforcement has been missed.

Right to peaceful enjoyment of property and the enforcement procedure

The right to peaceful enjoyment of property is one of the fundamental human rights. This right is guaranteed in Article 1 of Protocol No. 1 of the European Convention on Human Rights. It is also established in Article 58 of the Serbian Constitution as the right to property. Property rights may only be taken or restricted for public interest, based on law, and with compensation that cannot be lower than market value. The law may limit the manner of property usage. The confiscation or restriction of property for the collection of taxes, other fees, or fines is only allowed in accordance with the law (Constitution of the Republic of Serbia, 2006, Art. 58).

The enforcement procedure must balance the creditor's right to collect debts with the debtor's right to retain the basic resources necessary for normal life.

Interference by the state with the right to peaceful enjoyment of property is contrary to Article 1 of Protocol 1 of the European Convention when a fair balance has not been struck between the demands of the general interest and the protection of the right to peaceful enjoyment of property. This occurs when an individual, due to the uncertainty of their position and the absence of effective legal remedies, suffers an excessive burden (Supreme Court, Rev.14213/23, 2023).

Right to home and the enforcement procedure

The right to respect for private and family life and the right to home are fundamental human rights guaranteed by both international and domestic law. Article 8 of the European Convention on Human Rights protects this right, ensuring that every person has the right to protection of their privacy, family, and home.

Our Constitution recognizes the inviolability of the apartment (Constitution of the Republic of Serbia, 2006, Art. 40). However, the Constitution does not use the term "home"; rather, it uses the term "apartment," which is defined in the Law on Housing and Building Maintenance (2016) as a separate part of a building that forms a functional whole, consisting of one or more rooms intended for residence, and usually having a separate entrance (Art. 3). Consequently, in constitutional complaints concerning the violation of the right to home, applicants do not invoke the violation of Art. 40 of the Constitution, but directly refer to the violation of the right to respect for the home under Article 8 of the ECHR or other related convention rights (D. Palčaković, S. Ćorac, 2022, p. 297).

The protection of the right to home, particularly for vulnerable categories of residents, is also present in domestic judicial practice (D. Nikolić, S. Midorović, 2020, p. 62). In the context of the enforcement procedure, the right to home and privacy may be endangered, especially when the procedure involves the sale or seizure of real estate that serves as the debtor's home. The enforcement procedure is, by nature, coercive and aims to satisfy the creditor's claim, but at the same time, it is necessary to ensure that this process does not violate the debtor's basic human rights. Therefore, legislation and practice must foresee measures that protect the dignity of the debtor and the rights to their private and family life.

The Law on Enforcement and Securing of Claims foresees a series of measures that limit enforcement on properties used as the debtor's home, aiming to achieve a fair balance between the rights of creditors and the protection of the debtor's right to home. The principle of proportionality plays an important role in assessing whether the restriction of the right to home and privacy is justified in each specific case.

The argument advocating for the complete exemption of the debtor's sole property used as a residence from enforcement is based on several legal, social, and economic reasons. Primarily, the protection of the right to home, as a fundamental human right recognized by international acts such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights, forms the key basis for such a prohibition. This right would be threatened by the forced sale of the debtor's only property used as their home, which would expose the debtor and their family to homelessness and social marginalization. Furthermore, such a prohibition would promote social justice and reduce the burden on the state social system.

On the other hand, opponents of this idea point to serious implications for creditors' rights. Introducing such a prohibition would undermine the principle of legal certainty and lead to discrimination against creditors, who would be unable to collect their claims. Additionally, such a measure could encourage irresponsible borrowing and lead to abuses, such as the formal transfer of property to a protected real estate. Moreover, negative consequences would affect the efficiency of enforcement procedures, the financial system, and the state budget, as restrictions on enforcement would reduce credit availability and lower public revenue inflows. Furthermore, the issue of equality before the law arises, as debtors without real estate would find themselves in a disadvantaged position. This debate highlights the complexity of balancing the rights of debtors and creditors and the need to consider the proportionality of measures and their societal implications.

Correlation between the right to home and the enforcement procedure

The question of the correlation between the right to home and the enforcement procedure is a fundamental aspect of human rights protection within the judicial system. On one hand, the enforcement procedure aims to ensure the collection of claims and the effective realization of creditors' rights, which is important for the stability of the legal order and public trust in the judicial system. On the other hand, the right to home, as one of the highest rights in the hierarchy of human rights, not only refers to the physical space a person calls home but also encompasses important components of personal dignity, privacy, and family life. Therefore, the realization and protection of the right to home often come into conflict with the necessities of the enforcement procedure.

In some of its decisions, the European Court of Human Rights states that when it comes to respecting the right to home, it is necessary to determine whether there are sufficient and permanent connections linking a particular space, apartment, building, or other property to the applicant who claims it is their home. This means that in such situations, there is competition between the right to property and the potential right to home, and a proportionality test should be carried out to assess which of these rights should be afforded judicial protection in the specific case (Supreme Cassation Court, Rev. 5502/19, 2020). Whether certain premises constitute a home within the meaning of Article 8 of the ECHR is a matter of fact (ECtHR Judgment, *Bjedov v. Croatia*, 2012, <http://hudoc.echr.coe.int/eng?i=001-84365>).

The Law on Enforcement and Securing of Claims provides mechanisms to protect the debtor's right to home. This is especially reflected in the possibilities to limit enforcement or exclude certain properties from enforcement if their seizure would lead to the loss of home and endanger the debtor's family life. The lawfully acquired right to home prevails over the right to peaceful enjoyment of property (Supreme Court, Rev. 4942/23, 2024).

Although the right to home is not considered an economic or social right, it certainly has elements of the social status of the person to whom the right might apply. If the person, for some other reason, has the means to satisfy their housing needs, they cannot invoke the right to home (Judgment of the Supreme Court, Gzp1. 3/24, 2024). The right to home arises only when a person cannot provide themselves with any living conditions (Supreme Cassation Court, Rev. 1376/19, 2020). The ability to use an apartment as the realization of the right to home is of existential importance (Supreme Cassation Court, Rev. 109/21, 2021).

In order to determine whether the conditions for providing protection of the right to home are met in each specific case, it must be established whether the specific property represents the party's home, or whether the party has established a sufficiently strong and permanent connection to the property, regardless of the basis on which they use it. Even if a person resides in the property, this fact alone is not sufficient to recognize their right to home, particularly if the property does not represent their center of living or is not considered their home (Supreme Court, Rev. 30118/23, 2024). However, legal protection cannot be provided to a person who, without legal grounds, turns a space into a residence (Supreme Court, Rev. 28206/23, 2024).

It is then necessary to determine whether there is state interference with the right to home, which involves acts that limit or eliminate the factual possibility of using the property as an object of the right to home. If such interference exists, it is important to distinguish whether it is allowed or unlawful. Interference is allowed if it is legal, aimed at achieving a legitimate goal, and necessary in a democratic society. Interference is necessary if the same justified goal cannot be achieved through a milder measure, if there is an urgent social need, and if the interference is proportionate to that need. Parties should raise the violation of the right to home by filing a lawsuit to determine the unlawfulness of enforcement (Higher Court in Novi Sad, Gž.5460/20, 2021; Basic Court in Novi Sad, P.2365/20, 2020).

Conclusion

The enforcement procedure in the Republic of Serbia represents a key legal mechanism for the realization of creditors' rights and the execution of court decisions. While its primary goal is the protection of creditors' property rights, it is crucial that human rights and the dignity of the debtor, as well as other participants in the procedure, are not overlooked during this process. As analyzed in this paper, fundamental human rights, such as the right to a fair trial, the right to peaceful enjoyment of property, and the right to privacy and family life, including the right to home, represent foundational values that must be respected at all stages of enforcement. The right to protect the debtor's human rights must be equally safeguarded as the creditor's right to collect debts.

In the contemporary legal framework of the Republic of Serbia, the Law on Enforcement and Securing of Claims and relevant judicial practice aim to strike a fair balance between the realization of creditors' rights and the protection of debtors' human rights. Key principles such as proportionality, protection of the debtor, fair trial in enforcement proceedings, and the application of restrictions on enforcement concerning basic means of livelihood set the foundation for a fair resolution of conflicts between the right to collect and the right to protect the debtor's property. This approach helps prevent excessive restrictions that could negatively impact the life of the debtor and their family, contributing to the preservation of social balance and human rights.

The question of fairness in enforcement procedures is not only a legal issue but also an ethical one, as its application determines the realization of basic human rights in practical life. In this sense, the fairness of the procedure should not be sacrificed in the name of efficiency or the quicker realization of creditors' interests. Only through responsible and balanced application of the law can a legal system be built that simultaneously protects the interests of creditors and guarantees the human rights of debtors, ensuring the fundamental function of justice and the rule of law.

The further development of the legal system, which would include stronger protection of human rights and more efficient implementation of international legal standards, could contribute to the development of an even fairer and more efficient enforcement procedure. Enhancing the enforcement procedure leads to increased legal security, economic growth, and greater investor confidence. In this context, improving the legal framework and judicial practice, along with the implementation of international norms, represents a key opportunity to align the domestic system with European standards for human rights protection, which would, in the long run, contribute to the stability and public trust in the judicial system of the Republic of Serbia.

References

- Blagojević, B. T. (1936). *Principi privatnog procesnog prava* [Principles of private procedural law]. Beograd.
- Bjedov protiv Hrvatske, presuda ESLJP od 29. maja 2012. godine [Bjedov v. Croatia, ECtHR judgment of May 29, 2012]. <http://hudoc.echr.coe.int/eng?i=001-84365>
- Bodiroga, N. (2023). *Novi izvršni postupak* [The new enforcement procedure]. Beograd.
- Jakšić, A. (2022). *Zakon o parničnom postupku* [The Civil Procedure Code]. Beograd.
- Keča, R. (2012). O osnovnim načelima Zakona o izvršenju i obezbeđenju [On the basic principles of the Law on Enforcement and Securing]. *Zbornik radova Pravnog fakulteta u Novom Sadu*, 1, 160.
- Kulazov, M. M. (2019). Javna prodaja u skladu sa odredbama Zakona o parničnom postupku Srbije iz 1865. godine [Public sale in accordance with the provisions of the Serbian Civil Procedure Code of 1865]. *Zbornik radova Pravnog fakulteta u Novom Sadu*, 3, 866.
- Luk, B. (n.d.). Br. 508; Neumayr/Nunner-Krautgasser, 33.
- Nikolić, D. Ž., & Midorović, S. D. (2020). Ograničenje prava na imovinu pravom na dom (konceptualne definicije i pravna politika) [Limitation of property rights by the right to home (conceptual definitions and legal policy)]. *Zbornik radova Pravnog fakulteta u Novom Sadu*, 1, 62.
- Odluka Ustavnog suda Srbije, UŽ. 6995/20 od 14.07.2022. godine [Decision of the Constitutional Court of Serbia, UŽ. 6995/20, July 14, 2022].
- Odluka Ustavnog suda UŽ-883/2014, od 02.03.2016. godine [Decision of the Constitutional Court UŽ-883/2014, March 2, 2016].
- Palčaković, D., & Ćorac, S. (2022). Pravo na poštovanje doma i njegovu zaštitu (sa posebnim osvrtom na parnični postupak i sudsku praksu u Republici Srbiji) [Right to respect for the home and its

protection (with a special focus on civil procedure and judicial practice in the Republic of Serbia)].
Zbornik radova Kopaoničke škole prirodnog prava – Slobodan Perović, 297.

Presuda Vrhovnog kasacionog suda, Rev. 109/2021 od 22.04.2021. godine [Judgment of the Supreme Court of Cassation, Rev. 109/2021, April 22, 2021].

Presuda Vrhovnog kasacionog suda, Rev. 5502/2019 od 27.05.2020. godine [Judgment of the Supreme Court of Cassation, Rev. 5502/2019, May 27, 2020].

Presuda Vrhovnog kasacionog suda Rev 1376/2019 od 13.05.2020. godine [Judgment of the Supreme Court of Cassation, Rev. 1376/2019, May 13, 2020].

Presuda Vrhovnog suda, Rev. 30118/2023 od 11.07.2024. godine [Judgment of the Supreme Court, Rev. 30118/2023, July 11, 2024].

Presuda Vrhovnog suda, Rev. 4942/2023 od 10.10.2024. godine [Judgment of the Supreme Court, Rev. 4942/2023, October 10, 2024].

Presuda Vrhovnog suda Gzp1 3/2024 od 26.06.2024. godine [Judgment of the Supreme Court, Gzp1 3/2024, June 26, 2024].

Radulović, D., Počuča, M., & Šarkić, N. (2019). Posebni građanski postupci (drugo, izmenjeno i dopunjeno izdanje, p. 38) [Special civil procedures (2nd revised and amended ed., p. 38)]. Pravni fakultet Univerziteta Union.

Rešenje Privrednog apelacionog suda Iž. 1467/20 od 30.09.2020. godine [Decision of the Commercial Appellate Court, Iž. 1467/20, September 30, 2020].

Rešenje Privrednog apelacionog suda Iž. 190/16 od 29.09.2016. godine [Decision of the Commercial Appellate Court, Iž. 190/16, September 29, 2016].

Rešenje Privrednog apelacionog suda Iž. 662/20 od 10.06.2020. godine [Decision of the Commercial Appellate Court, Iž. 662/20, June 10, 2020].

Rešenje Privrednog apelacionog suda Iž. 785/17 od 14.06.2017. godine [Decision of the Commercial Appellate Court, Iž. 785/17, June 14, 2017].

Rešenje Višeg suda u Čačku, Gž.761/11 od 16.09.2011. godine [Decision of the Higher Court in Čačak, Gž.761/11, September 16, 2011].

Rešenje Višeg suda u Novom Sadu, posl. broj Gž-5460/20 od 18.01.2021. godine, kojim je delimično ukinuta presuda Osnovnog suda u Novom Sadu posl. br. P-2365/20 od 06.03.2020. godine [Decision of the Higher Court in Novi Sad, Gž-5460/20, January 18, 2021, partially annulling judgment of the Basic Court in Novi Sad, P-2365/20, March 6, 2020].

Rešenje Vrhovnog suda, Rev. 14213/2023 od 30.10.2024. godine [Decision of the Supreme Court, Rev. 14213/2023, October 30, 2024].

Rešenje Vrhovnog suda, Rev.28206/2023 od 24.10.2024. godine [Decision of the Supreme Court, Rev.28206/2023, October 24, 2024].

Ujdehag, J., Ginzburg, S., Popov, K., Bengtson, B., Milošević, M., & Bodiroga, N. (2014). *Sveobuhvatna analiza sistema izvršenja u Srbiji* (p. 122) [Comprehensive analysis of the enforcement system in Serbia (p. 122)]. Beograd.

Zakon o izvršenju i obezbeđenju („Službeni glasnik Republike Srbije“, br. 106/2015, 106/2016 – autentično tumačenje, 113/2017 – autentično tumačenje, 54/2019, 9/2020 – autentično tumačenje i 10/2023 – dr. zakon) [Law on Enforcement and Securing (Official Gazette of the Republic of Serbia, Nos. 106/2015, 106/2016 – authentic interpretation, 113/2017 – authentic interpretation, 54/2019, 9/2020 – authentic interpretation, and 10/2023 – amended law)].

Zakon o stanovanju i održavanju objekata ("Službeni glasnik RS", br. 104/2016 i 9/2020 – dr. zakon) [Law on Housing and Maintenance of Buildings (Official Gazette of RS, Nos. 104/2016 and 9/2020 – amended law)].

Izvršni postupak u Republici Srbiji u kontekstu zaštite prava stranaka u postupku

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Sažetak

Izvršni postupak u Republici Srbiji predstavlja ključni pravni mehanizam za ostvarivanje prava poverilaca i sprovođenje sudskih odluka, koji ima značajnu ulogu u očuvanju pravne sigurnosti i stabilnosti tržišta. Međutim, istovremeno je od suštinskog značaja da ovaj postupak bude sproveden uz poštovanje osnovnih ljudskih prava dužnika i drugih učesnika u procesu, kako bi se obezbedio pravičan balans između konkurentnih interesa. Ovaj rad analizira pravičnost izvršnog postupka kroz prizmu zaštite prava stranaka, sa posebnim naglaskom na primenu međunarodnih i domaćih pravnih standarda. Fokus istraživanja su ključna ljudska prava, uključujući pravo na pravično suđenje, pravo na mirno uživanje imovine, pravo na zaštitu privatnosti i porodičnog života, kao i pravo na dom, a istražuju se njihova primena i zaštita u okviru izvršnih postupaka. Prava stranaka i učesnika u izvršnim postupcima obezbeđena su brojnim pravnim mehanizmima, uključujući pravo na žalbu, mogućnost podnošenja prigovora trećih lica, kao i načelo srazmernosti u sprovođenju izvršenja. Ovi principi imaju za cilj da garantuju pravičan postupak uz poštovanje ljudskih prava, čime se nastoji očuvati ravnoteža između zaštite interesa poverilaca i prava dužnika. Takođe, rad razmatra i načelo zaštite izvršnog dužnika, koje, iako nije izričito propisano Zakonom o izvršenju i obezbeđenju, igra ključnu ulogu u obezbeđivanju pravičnosti postupka.

Ključne reči: Izvršni postupak, prava stranaka, prava učesnika, pravično suđenje, pravo na mirno uživanje imovine.