



### **Atelier 3 - Une approche de l'exécution du 21<sup>e</sup> siècle**

Panel 1 - Nouvelles approches, nouveaux outils pour l'exécution

### **Workshop 3 – 21<sup>st</sup> Approach to Enforcement**

Panel 1 – New Approaches – New Tools to Enforcement

## **Summary Proceedings**

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Greetings! We're the representatives from National Bureau of Enforcement of Georgia (NBE), which is legal entity of public law under the custody of Ministry of Justice of Georgia. The organization is governmental entity although it is completely self-sustainable organization, which does not get any subsidies or donations from state. Our organization is the main civil enforcer in the country. Among many other service that are in essence neighbouring enforcement and are pretty ok with the CEPEJ guidelines, namely with 34<sup>th</sup> article which sets the area of possible activities for enforcement agent, there is one specific service, which is available at NBE from late 2012 which is main topic of our presentation.

To break down the presentation, we'll talk about what is implied under the summary proceedings as modified by NBE. What are actual procedures, fees and some advantages this service has.

Initially, summary proceedings was the services offered by Georgian courts. What was implied by the service was that without looking into the details of the case if there was no objection from the responding party court was issuing decision on the claims that were clearly in favour of the applicants such cases could be cases regarding the bank loans. The situation was that the service was not that popular in terms of although it could be of a great value for applicants' courts were not promoting this service and during the decade one record-breaking year was when they received 1200 applications.

We decided to bring the service and the court happily complied with the NBE based on the experience of France and Sweden. We were lucky enough to have ongoing to international projects of twinning and Sida at NBE and we had the opportunity to get best possible expertise in the field.

The summary proceedings as offered by NBE implies that in order for the case to be valid it has to be regarding the breach of monetary pecuniary obligations. If there is written agreement in any form maybe it's between two private parties and its informal you're still eligible to file for the service. The costs in terms of money and time are shrunken in comparison to standard court proceedings however the result can be same – enforcement title.



We set up separate office at NBE for this service. So there we have head of the office and two types of subordinating employee's case-managers and advisers.

When the application is registered at NBE it is forwarded to the office and advisers are the people who go through it initially and check the validity of the case whether according to the law the case is applicable or not if this check point is passed successfully then the case is assigned to one of the case managers who are actually trained negotiators. What can they do and are actually doing is that they are assuring the respondents that it's in their interest to pay the debt as early as possible to avoid running interest rates and court fees if applicant decides to apply to court his/her attorney fees etc. What statistics are telling is this is working. The good thing for applicant i.e. creditor is that it also allows them to secure their claim by attachment of debtors property that the property is not sold or just given away.

There are few possibilities for development after case is registered at NBE let's go through each of them.

1. when the debtor i.e. respondent is informed about the ongoing case against him he can directly paid the debt – that's on solution 2nd will be if he pays only partially, third will be if he acknowledges the debt only partially, 4th will be full acknowledgement of the debt, 5th protesting - which means summary proceedings is over applicant can go to the court and can even claim the money he/she spent for summary proceedings 6th is ignoring which is actually equal to the issuance of enforcement title and the final request for negotiation. In all cases except for full payment and protest we are issuing enforcement titles, which is the result totally similar to regular court proceedings, this makes service attractive for financial institutions. Respondent has 10 days to reply on the served documents.

Fee for the application for summary proceedings is 100 Lari which slightly less than 50 USD. In case of share commitments if an application addresses more than one defendant or/and is made by more than one applicant, the price of application is still 100 GEL per person. An applicant is authorized to require the execution of the decree prior to the proceedings or on any step of it if such decree is issued or a defendant rejects the agreement terms. An applicant should pay 2% of the amount stipulated in the assignment as an enforcement service guarantee due. The amount will be refunded after the enforcement is completed. Together with the execution of the pay order an applicant is allowed to require a property provision activity against a defendant, the service due per item totals 50 GEL.

To sum up the advantages the summary proceedings have against regular court proceedings would be that you're receiving the service either at the headquarters of NBE or public service hall which is kind of one stop shop for all state services and it's pretty handy for businesses. You're making good time saving manoeuvre as you don't have wait for prolonged court proceedings, you save a lot of money and going to the court actually means that you're entering into zero sum game you either loose or win whereas summary proceedings gives you possibility to negotiate the outcome. Remember when I said that the biggest hit for the Georgian courts was 1200 cases per year this statistics clearly show the difference after just two years of having this service available we regulated



7000 cases and as you see here in the statistics only about 18% of the cases could not evolve farther due to the protest.

Thanks for being patient. We do really hope the presentation was interesting