LEGAL FRAME OF CHILD SUPPORT ENFORCEMENT IN BULGARIA

JUDICIAL TITLE, STATUTORY PRIORITY AND GUARANTEES BY THE STATE, EU TRANS BORDER INSTRUMENTS

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LAW & FIELD OF REGULATION

- In Republic of Bulgaria, child support and alimony (maintenance) are stipulated by the Family Code. The Code and regulations present the legal base for support obligations of parents, spouses, and former spouses. Enforcement of adjudicated titles in cases related to child support and alimony are enforced according to the procedural rules set out in the Civil Procedural Code. In general, these rules are applicable to judicial enforcement of any civil title.

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CHILD SUPPORT

1. 1. Statutory Obligation - Both parents are legally obligated

- 18 years of age, in general
- 20 years of age if still in secondary education
- 25 if in higher education course (university)

1.2. Amount

- Based on the needs of the child and the earning capability of the parent
- Determined by the court based on claim and evidence
- Typically calculated as monthly amount. The presiding judge holds significant discretion in determining the amount of the child support.

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CIVIL ACTION

- Alimony could be determined by out-of-court agreement,
- In the context of divorce proceedings the court would decide the amount. Following divorce (or separation) child support is claimed by the parent exercising parental rights (with whom the child lives) against the other parent.
- Separate maintenance case could also be filed, since support is based on parentage, not necessarily on marriage.
- The court may adjust the amount in additional proceedings if circumstances change (e.g., income, expenses).

BURDEN OF PROOF

BoP lies on the claimant (plaintiff) by basic principle of procedure. Nonetheless, in child support case the court holds broad discretion to collect evidence on its own accord, should it considers that justice is better served. Both by statute and case law, the court would assist the claimant who in practical terms is the weaker party.

ENFORCEMENT

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Absent voluntary payment, the custodial parent can initiate enforcement through a bailiff (judicial officer). Enforcement of child support employs all instruments applicable to judicial enforcement of debt:

- Attachment of income/ receivables,
- Seizure and auctioning of assets (real estate, movables, intellectual property, shares & securities …) etc.
- Special *procedural privileges* are applicable. No advance fees and costs are owed by claimant. Child support is not subject to statute of limitation established by art. 433, para 1, subpar 8 of CPC, debtor's income is not protected (contrary to protection of certain minimal income against enforcement of other civil obligations), in the process of disbursement of proceeds from collected receivables or auctioned assets, child support obligation must be satisfied with priority to other non-collateralized debt (art. 135, para 5 COA).

CRIMINAL LIABILITY

In cases where non-payment is persistent, criminal liability under Article 183 of the Bulgarian Penal Code is applicable under certain conditions.

ENFORCEMENT PROCESS

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Enforcement carried through a procedure governed by the Civil Procedure Code.

What Is an Enforceable Title?

To begin enforcement, the creditor (usually the parent with custody or the supported spouse) needs a writ of execution based on:

- A court decision ordering payment of child support or alimony;
- A settlement agreement approved by the court;
- A foreign judgment, if recognized in Bulgaria;

The court issues a *writ of execution*, which provides the legal authority to begin enforcement.

COMPETENT ENFORCEMENT AUTHORITY

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A judicial officer (private or state enforcement officer) holds the prerogative to open a case file and initiate enforcement proceedings. The choice of an enforcement professional depends on the discretion of the entitled party:

- Private judicial officer - urban areas; proactive attitude and efficiency are factors in rural areas.

- State judicial officer - rural areas with logistic challenges such as distance, terrain, lack of infrastructure…

SEIZURE AND PROCESSING OF DEBTOR'S ASSETS

Movable or immovable property can be seized and auctioned. The process is predicated by an attachment of the property (real estate, vehicles, including on land, water and air, furniture, appliance, art and etc.). The attachment order is subject to entry in the respective public register, which would render void any subsequent transaction. Any debtor's asset with value higher than the potential procedural costs is subject to inventory, appraisal and public auction. All procedural operations therein are within the prerogatives of the judicial officer.

PRIORITY OF MAINTENANCE PAYMENTS

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Child support obligations have a high statutory priority in the order of satisfaction of debts in enforcement proceedings. Art. 136 of the Obligations and Contracts Act stipulates that payments due for child/ spouse support must be disbursed following satisfaction of certain litigation costs, as well as collateralized debt (if proceeds from a collateral are disbursed), but before any other unsecured debt of the same debtor.

PAYMENT OF CHILD SUPPORT BY THE STATE

- The debtor parent fails to pay
- The judicial enforcement is ineffective because of lack of assets. Latter must be established in the case file.

The state pays the maintenance awarded to a minor child (Bulgarian citizen) at the expense of the defaulting debtor in the amount determined in the court, but not more than the maximum amount determined annually by the State Budget Act. This is a form of social protection regulated by the Family Code and relevant by-laws. In practical terms, the municipal authority with local jurisdiction administers the payment. The defaulting debtor is obliged to reimburse the maintenance paid by the state together with the statutory interest. The state is a joint creditor for the maintenance paid by the municipality under the initiated enforcement case. The due fees and expenses are collected directly from the debtor by the case officer.

EU TRANS BORDER INSTRUMENTS

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EU regulations related to child support focus on cross-border cases where parents live in different EU member states, ensuring that the rights of both parents and children are protected. The main EU regulations include Regulation 2019/1111 (for proceedings starting after August 1, 2022) and Regulation 2201/2003 (for proceedings before that date), addressing jurisdiction, recognition, and enforcement of child support orders across EU borders.

RECOGNITION AND ENFORCEMENT:

Once a EU country court decree on child support is granted, the regulations facilitate its recognition and enforcement in other EU countries, making it more efficient to collect payments.

CENTRAL AUTHORITIES:

Each EU country has a central authority that assists with applications for child support across borders, according to The Hague Convention and the 2009 Regulation.

Free or Low-cost Application:

For cases involving children, the application process can often be free or involve minimal fees.

HARMONIZATION EFFORTS:

The EU is working to harmonize child support arrangements across the EU, aiming to create a more uniform system. EU regulations prioritize the best interests of the child, ensuring their rights are considered in all aspects of child support matters.

Thank you for your attention!