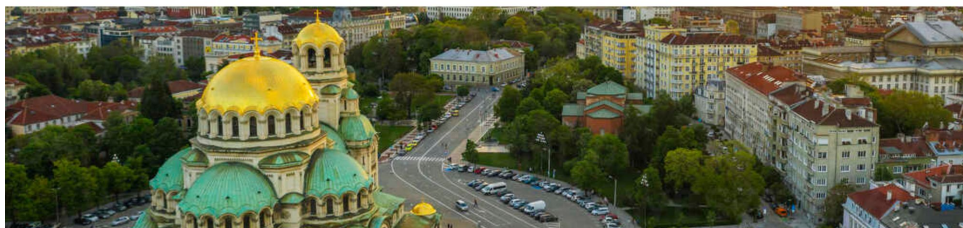




EURAVOCAT LAW HANDBOOK

DEBT COLLECTION IN BULGARIA

From our member in Sofia



1. Amicable collection

The process for collecting receivables usually starts with contacting the debtor and sending a request for voluntary payment. To formalize the sending of the request and to certify that it has been handed over, it can be sent through a notary or

bailiff. If the request for voluntary payment does not achieve the desired result, it is recommended to analyze the debtor (its financial and property status) before deciding to initiate court proceedings.

2. Judicial collection

If the amicable phase has not been successful, the following options for court proceedings are available:

2.1 Order for payment. European payment order.

Simplified procedure for collecting receivables through the so-called order for payment procedure, where the court issues an order for payment.

The procedure is admissible for claims for up to BGN 25 000 (EUR 12 500) and includes the following:

<i>Referring the matter to the court</i>	Application form
<i>Evidence</i>	It is not necessary to submit any
<i>Document issued by the court</i>	Order for payment which is handed over to the debtor
<i>Period of time</i>	Approx. a month
<i>Rights of the debtor</i>	The debtor has the right to object to the issued order for payment if the receivable is not accepted.
<i>Result</i>	If the debtor does not object to the issued order for payment, the court issues a title of execution. If the order for payment is objected to, the court gives instructions on the possibility for filing a declaratory action through a regular court procedure.
<i>State fee</i>	2% of the value of the claim

2.2 Order for immediate enforcement.

When the receivable is based on an agreement or a contract with notary certification of the signatures, excerpt from the Register of Pledges for a registered pledge, promissory note, bill of exchange, bond, mortgage etc. the issuance of an order for immediate enforcement is admissible, where together with the order the court issues a title of execution as well. In this case the value of the case is irrelevant.

<i>Referring the matter to the court</i>	Application form
<i>Evidence</i>	The document which the receivable originates from should be presented in original
<i>Document issued by the court</i>	Order for immediate enforcement which is not handed over to the debtor
<i>Period of time</i>	Approx. two weeks
<i>Rights of the debtor</i>	To file an objection against the order in the enforcement proceedings after having been notified with a request for voluntary payment issued by the bailiff
<i>Result</i>	The court issues a title of execution. When the debtor objects after having received the request for voluntary payment, the court gives instructions on the creditor on filing declaratory action. The objection of the debtor does not stop the enforcement proceedings.
<i>State fee</i>	2%

2.3 Ordinary legal action

The filing of a suit for performance by a creditor against a debtor can be made before the relevant regional or district court of registration or residence of the debtor. Claims for up to BGN 25 000, -- (EUR 12 500) can be filed before the district court and for a claims of higher value the competent court is the regional court. The proceedings start with a statement of claim filed by the

claimant to which evidence is attached and evidentiary requests are made. The defendant has a one-month deadline to respond to the statement of claim, and also has obligations to present evidence and make evidentiary requests.

After the exchange of papers, the court schedules an open court hearing where the respective procedural actions are carried out depending on what is stated by each of the parties.

Several open court hearings may be scheduled to gather evidence and perform other procedural actions. The proceedings before the first instance court take 6 to 12 months.

2.4 Appeal.

The decisions of the first instance court can be appealed before a higher instance court within 14 days of their receipt.

Cassation before the Supreme Court of Cassation is admissible for such decisions of an appellate court which are of probable nullity or inadmissibility, or clearly erroneous.

Furthermore subject to cassation are also decisions in appeal proceedings where the court pronounces a decision on a substantive matter or a matter of remedy which has been decided in a way that is:

- a. contrary to the mandatory practice of the Supreme Court of Cassation;
- b. contrary to a legal act of the Constitutional Court of the Republic of Bulgaria or of the Court of Justice of the European Union;
- c. of importance for the correct application of the legislation, as well as for the development of the law.

2.5 Enforcement.

After the court decision enters into force, the court issues a title of execution on the basis of which enforcement proceedings can be started. Based on the title of execution, the creditor can initiate enforcement proceedings before a public or private bailiff.

2.6 Insolvency

If a debtor becomes insolvent, the creditors can file a request with the respective regional court to declare the debtor insolvent. The request can be filed by one or several creditors. The court checks the request together with the evidence presented, makes an assessment of the debtor's solvency and, if there is evidence of insolvency, opens insolvency proceedings. A temporary receiver is appointed and a first meeting of creditors is scheduled to elect a permanent receiver. The decision to open insolvency proceedings is then published in the Commercial Register under the account of the respective company. Creditors can submit their claims within 1 (one) month as of the opening of the insolvency proceedings. If the available assets of the debtor are not sufficient to cover the initial costs, the court determines the amount which must be prepaid within a period of time (fixed by the court) by each interested person, so as insolvency proceedings can be opened.

With the opening of bankruptcy proceedings, all court and arbitration proceedings in property, civil and commercial cases against the debtor are suspended, with the exception of labor disputes regarding monetary claims.

In the course of the insolvency proceedings, the receiver may terminate any contract to which the debtor is a party, if it is not fulfilled in whole or in part, request that certain actions and transactions be declared invalid with regard to the creditors of the insolvency.

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Notes

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