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**DIGITALIZATION OF ENFORCEMENT PROCEEDINGS AND
ITS IMPACT ON THE PROCEDURAL POSITION OF THE
PARTIES**

Abstract: The digitalization of the judiciary represents one of the most significant contemporary processes of legal system reform. Due to its nature and the need for prompt action, enforcement proceedings constitute a particularly suitable area for the application of various digital mechanisms. This paper analyzes the most important forms of digitalization of enforcement proceedings in the Republic of Serbia, with particular emphasis on the electronic submission of motions for enforcement, digitalization of service of documents, electronic public auctions, electronic records, and information systems used in enforcement proceedings. In addition to examining the domestic legal framework, the paper also provides a comparative legal overview of selected solutions implemented within the legal system of the Republic of Croatia. The digitalization of enforcement proceedings may contribute to greater efficiency, transparency, and accessibility of the procedure; however, it may simultaneously raise issues relating to digital literacy, equal access to justice, and the preservation of procedural safeguards afforded to the parties. The paper concludes that digitalization does not alter the scope of the parties' procedural rights but rather the manner in which such rights are exercised and protected. Consequently, it is necessary to ensure an appropriate balance between technological advancement and the preservation of fundamental procedural rights.

Keywords: *digitalization; enforcement proceedings; procedural protection; e-justice; legal certainty.*

1. INTRODUCTION

The contemporary development of information and communication technologies (ICT) has brought about significant changes in the functioning of public authorities and the judicial system. The digitalisation of the judiciary has become a key element of legal reform, improving the efficiency of proceedings and legal certainty. Enforcement proceedings are particularly suited to the application of digital mechanisms and electronic communication. The European Commission for the Efficiency of Justice (CEPEJ) Guidelines indicate that the implementation of digital technologies in the judiciary must be accompanied by mechanisms ensuring the accessibility of electronic services to all users and preventing the emergence of de facto inequality resulting from the insufficient digital inclusion of certain categories of citizens (European Commission for the Efficiency of Justice [CEPEJ], 2021). The European Court of Human Rights has recognised that digital technologies may contribute to the better administration of justice (Xavier Lucas v. France, para. 46).¹ In the same vein, the Constitutional Court of the Republic of Serbia has taken the position that electronic communication between the parties and the competent authorities, as well as among the authorities themselves, contributes to the faster and simpler exercise of the rights of natural and legal persons.²

The Republic of Serbia adopted the revised Action Plan for Chapter 23 – Judiciary and Fundamental Rights within the framework of its accession to the European Union, which has contributed to the further digitalization of the judiciary (Action Plan for Chapter 23 – Judiciary and Fundamental Rights, 2020). The digitalization of enforcement proceedings in the Republic of Serbia has been marked by the introduction of the Judicial Information System (JIS), electronic filing of motions for enforcement, electronic service, e-auctions, and electronic registers. While these mechanisms improve the efficiency and cost-effectiveness of enforcement proceedings, they also raise important issues concerning the parties' procedural rights in a digital environment.

¹ ECtHR, *Xavier Lucas v. France*, Application no. 15567/20, Judgment of 9 June 2022, para. 46.

² Constitutional Court of the Republic of Serbia, Decision IUz-49/2021 of 22 March 2023.

Digitalization also creates challenges related to digital literacy, technical accessibility, and procedural inequality. This paper analyses its impact on the procedural protection of the parties in Serbia, with a comparative overview of Croatian law, and assesses whether the current legal framework provides adequate protection of the parties' rights.

2. Significance and Objectives of the Digitalisation of Enforcement Proceedings

Modern business conditions and the development of information and communication technologies have brought about continuous changes in the functioning of society and public institutions, with digitalisation becoming one of the principal directions of development in contemporary systems. The digital environment can no longer be regarded as a temporary or revolutionary phenomenon, but rather as a continuous process of technological evolution that significantly affects communication, access to information, and the organization of work (Vasić & Bulatović, 2022, p. 100).

Although the Law on Enforcement and Security (LES, 2015) does not expressly prescribe the principle of assistance to an unrepresented or legally uninformed party, this principle constitutes a general principle of judicial procedure. However, it should be interpreted narrowly and applied only where a party loses a procedural right due to objective lack of legal knowledge (Šarkić, Radulović & Počuča, 2019, p.55). Accordingly, digitalisation must be accompanied by appropriate normative and institutional mechanisms to ensure that technological development does not undermine the parties' fundamental procedural rights. Its objectives should therefore be assessed not only in terms of technical and organisational advantages but also in light of their impact on the parties' procedural status.

Digitalisation is not an end in itself but a means of advancing the objectives of enforcement proceedings by improving efficiency, transparency, accessibility of legal protection, and legal certainty. Its success ultimately depends on its contribution to the effective exercise of the parties' procedural rights while preserving procedural safeguards.

3. Digital Mechanisms in Enforcement Proceedings in the Republic of Serbia

The digitalisation of the judiciary in the Republic of Serbia has led to the gradual introduction of electronic mechanisms and digital tools aimed at

improving the efficiency of enforcement proceedings, accelerating communication, and reducing administrative burdens. In addition, enforcement cases can be monitored through an online portal, enhancing transparency and access to information for persons who possess the relevant case number.

The Ministry of Justice of the Republic of Serbia maintains the Register of Public Enforcement Officers and Deputy Public Enforcement Officers pursuant to Article 510(1) of the LES. This register is also accessible through the official website of the Ministry of Justice.

Of particular importance is the Judicial Information System (JIS), which enables all courts, public prosecutor's offices, notaries public, and public enforcement officers to obtain electronic access to data from the Central Register of Mandatory Social Insurance, the Misdemeanour Records, the Administration for the Execution of Criminal Sanctions, the Ministry of the Interior, the Civil Status Registers, the Serbian Business Registers Agency, the Republic Geodetic Authority, the courts of general jurisdiction, the Pension and Disability Insurance Fund, the Real Estate Transaction Register containing data on notarial deeds and the solemnization of real estate transfer agreements, information on the notaries public who conducted the relevant proceedings, information on the courts responsible for verifying entries in the Register, the National Bank of Serbia, and the Tax Administration (SAI, 2023, pp. 28-29).

The interconnection of state registers through the Judicial Information System (JIS) enhances the efficiency of enforcement proceedings by providing faster access to information on the enforcement debtor's assets, enabling public enforcement officers to conduct proceedings more efficiently in accordance with the principle of proportionality. At the same time, centralised data exchange requires adequate protection of personal data against unauthorised access. The use of information and communication technologies also facilitates procedural actions, data exchange, and case management, thereby contributing to the principle of expedition in enforcement proceedings.

3.1. Motion for Enforcement in Electronic Form

Proceeding from the principle of party disposition, enforcement proceedings are, as a rule, initiated at the request of the enforcement creditor by filing a motion for enforcement. Such a motion is submitted in the form of a written pleading and must satisfy the statutory requirements regarding

its content, including a clearly expressed request by the creditor for legal protection (Bodiroga, 2023, p. 288).

Enforcement proceedings are initiated by the enforcement creditor filing a motion for enforcement based on an enforceable or an authentic instrument, while *ex officio* initiation is permitted only where prescribed by law. As a rule, such motions are decided by the court. However, pursuant to Article 3 of the LES, motions concerning monetary claims arising from utility and related services, as well as claims against direct or indirect beneficiaries of budgetary funds, are decided by a public enforcement officer. Once the enforcement decision has been issued, enforcement is carried out.

Accordingly, pursuant to Article 62a of the LES, the motion for enforcement constitutes the initiating procedural act by which enforcement proceedings are commenced, and it may be submitted either in physical (paper) form or electronically as an electronically signed pleading. The Rulebook on the Method of Submitting Motions for Enforcement Based on an Enforceable or an Authentic Instrument in Electronic Form (2021) prescribes the manner of submitting such motions, as well as the requirements for access to and registration of users of the Information System of the Ministry responsible for justice (Information System). Such motions are submitted through the Information System, the use of which is provided by the Ministry of Justice, which also publishes the user manual for its use on the Serbian Judiciary Portal.

The Information System automatically processes the motion and accompanying documents, records the time of receipt using a qualified electronic time stamp, assigns a unique reference number, and electronically notifies the party that the motion has been submitted to the competent court or public enforcement officer (Stanković, Palčaković & Trešnjev, 2022, p. 388).

3.2. Digitalisation of Service Documents

Enforcement proceedings, like any other form of procedural legal protection, involve continuous communication between the court, the public enforcement officer, and the participants in the proceedings. In this regard, the service of documents constitutes an important procedural mechanism that directly affects the course of the proceedings and the ability of the parties to exercise their procedural rights in a timely manner (Jeličić, 2019, p.178).

The digitalisation of service of documents has been implemented through the introduction of the electronic notice board. Since 1 January

2020, the Ministry of Justice has operated the electronic notice board (e-Notice Board), enabling both natural and legal persons to locate documents relating to enforcement proceedings that, for various reasons, could not be personally served by the public enforcement officer or the court. By entering their personal data, individuals may verify whether there is any decision issued in enforcement proceedings that concerns them.

In order to improve the level of information available to the parties, it would be justified to introduce an SMS notification service as a supplementary mechanism for informing parties that a document has been posted on the electronic notice board, without affecting the rules governing the proper service of documents (Deretić, 2019, p. 14).

As a general rule, documents are served on the enforcement debtor at the registered address. If service cannot be effected, the document is posted on the court's electronic notice board. Where the enforcement order is based on an authentic instrument, service is repeated once before posting. The process server leaves a notice informing the debtor of the posting, and service is deemed effected eight days after the document is published on the electronic notice board. These rules apply *mutatis mutandis* to the enforcement creditor and other participants in the proceedings, pursuant to Article 36 of the LES. Judicial decisions, other documents, and submissions in enforcement and security proceedings are generally served by the public enforcement officer, unless the court has exclusive jurisdiction. Service between the public enforcement officer and other public authorities may also be effected electronically.

The court whose electronic notice board is used by the public enforcement officer for the service of decisions and other documents maintains a separate register recording the date on which each decision or document is posted on, and removed from, the electronic notice board, and provides the public enforcement officer with an official electronic confirmation thereof. The register contains the court case number or the case number assigned by the public enforcement officer, as well as the name or business name, the Unique Master Citizen Number (JMBG), the registration number, the Tax Identification Number (PIB) of the parties to the proceedings. Where enforcement is conducted by a public enforcement officer, submissions and other documents filed by the parties and other persons are served directly on the public enforcement officer.

The importance of proper service has also been confirmed in the case law of the Constitutional Court of the Republic of Serbia, which, in its

decision UŽ-9076/2016 of 21 February 2019,³ held that failure to comply with the statutory procedure governing the service of an enforcement order on the enforcement debtor may result in a violation of the right to a fair trial and the right to an effective legal remedy. This position demonstrates that the rules governing service of documents are not merely a procedural formality, but one of the fundamental safeguards for the protection of the parties' rights in enforcement proceedings.

Electronic service speeds up enforcement proceedings and facilitates the timely exercise of the parties' procedural rights. However, risks related to digital literacy, technical difficulties, and limited access to electronic communication require safeguards to ensure that efficiency does not compromise the parties' rights.

Particular attention should be paid to the fact that service of an enforcement order based on an authentic instrument exclusively through the court's electronic notice board may undermine the effectiveness of the enforcement debtor's procedural protection. Unlike other enforceable instruments, such an enforcement order often constitutes the first document through which the enforcement debtor becomes aware that a legal obligation has been established against him or her. It is therefore of particular importance that the debtor be informed in a timely and reliable manner in order to exercise the right to a legal remedy. For this reason, it would be justified to consider a combined method of service through both the electronic notice board and the traditional physical notice board of the court. Such an approach would reduce the risks associated with digital illiteracy and ensure more effective protection of the procedural rights of the parties. At the same time, the State should adopt appropriate measures to improve the digital literacy of citizens, as an essential prerequisite for the successful digitalization of the judiciary (Ramadani, 2025, p. 14).

3.3. Electronic Public Auctions through the „e-Auction” Platform

Electronic public auctions constitute one of the most significant forms of the digitalization of enforcement proceedings. The positive effects of this system are reflected primarily in increased transparency and the more efficient conduct of enforcement proceedings (Udvary, 2021, p. 1012). In addition to enhancing the transparency of proceedings, electronic public

³ Constitutional Court of the Republic of Serbia, Decision UŽ-9076/2016 of 21 February 2019.

auctions contribute to greater accessibility of relevant information for all participants and facilitate the achievement of the real market value of the property subject to enforcement (Jovanović & Aleksić, 2024, p. 232).

Article 171a(2) of the LES provides that the organization and procedure governing electronic public auctions shall be regulated in greater detail by the Minister responsible for Justice. Accordingly, the Rulebook on the Organisation and Procedure of Electronic Public Auctions (2020) modernised enforcement proceedings by introducing electronic public auctions as the only permitted form since 1 September 2020. This has increased transparency, reduced abuses, and often resulted in higher sale prices, improving the enforcement creditor's satisfaction of the claim.

The e-Auction platform is used for electronic public sales of movable and immovable property in accordance with the Rulebook on the Organisation and Procedure of Electronic Public Auctions. Public enforcement officers publish notices of sale electronically, while registered users may submit bids through the platform. The system ensures automatic recording of bids, transparency, and equal treatment of participants, whereas matters not specifically regulated are governed by the LES.

Before the introduction of electronic public auctions, bidding was often fictitious due to collusion and other abuses, resulting in less favourable satisfaction of the creditor's claim and a lower degree of discharge of the debtor's obligation (Kozar & Lazarević, 2025, p. 508).

3.4. Digitalisation of Proceedings in Which the Enforcement Debtor is a Beneficiary of Budgetary Funds

The LES prescribes specific rules applicable where the enforcement debtor is a direct or indirect beneficiary of budgetary funds. First, a motion for enforcement against such an enforcement debtor is decided by a public enforcement officer, who is also responsible for conducting the enforcement proceedings. In addition, the enforcement creditor must fulfil two additional obligations before filing the motion for enforcement. The first is to notify the ministry responsible for finance of the intention to file a motion for enforcement no later than 30 days before submitting the motion. The second is to submit a request to the Chamber of Public Enforcement Officers for the designation of a public enforcement officer who will decide on the motion and conduct the enforcement proceedings.

3.4.1. Notification of the Intention to File a Motion for Enforcement

Before filing a motion for enforcement in such cases, the enforcement creditor is required to notify the ministry responsible for finance in writing of the intention to file the motion no later than 30 days prior to its submission. Pursuant to Article 300(5) and (6) of the LES, the enforcement creditor must attach proof that such notification has been sent to the motion for enforcement; otherwise, the motion shall be dismissed. This rule grants beneficiaries of budgetary funds the status of privileged debtors by requiring the enforcement creditor to notify the ministry responsible for finance before filing a motion for enforcement, thereby providing the debtor with an additional opportunity for voluntary compliance. The notification is submitted using a standard form, either by post or electronically to the Ministry of Finance – Treasury Administration.

3.4.2. Request to the Chamber of Public Enforcement Officers for the Designation of a Public Enforcement Officer

The latest amendments to the LES require the enforcement creditor, before filing a motion for enforcement, to request the Chamber of Public Enforcement Officers to designate the competent public enforcement officer. Articles 300 and 393 of the LES provide that the Chamber must respond within five days, assigning officers according to the alphabetical order of their registration. If no response is received, the enforcement creditor may designate the public enforcement officer.

The request is submitted to the Chamber of Public Enforcement Officers electronically, thereby increasing procedural efficiency. At the same time, the system of equal allocation eliminates potential risks of corruption, accelerates and simplifies the procedure, and reduces procedural costs.

4. Electronic Records and Electronic Registers in Enforcement Proceedings

Information systems and electronic databases are key elements of the digitalisation of enforcement proceedings, enabling rapid access to information essential for the efficient conduct of enforcement proceedings.

4.1. Register of Court Injunctions

The Register of Court Injunctions is a central public electronic database containing information on interim measures prohibiting the disposal of movable property, immovable property, and rights in rem over such property, irrespective of whether such measures were ordered before, during, or after judicial proceedings.

Article 461 of the LES provides that the maintenance of this Register has been entrusted to the Serbian Business Registers Agency. The enforcement creditor is required, without delay, to request the registration in this Register of an interim measure prohibiting the alienation and encumbrance of the enforcement debtor's movable property, immovable property, and rights in rem over immovable property. The registration of such a measure has declaratory effect, since, from the moment of its registration, third parties are deemed to have been informed of the existence of the restriction. Accordingly, no person may invoke a lack of knowledge of the information contained in this Register.

The establishment of this Register as a centralised electronic database enables interested persons to obtain rapid and straightforward access to information concerning imposed measures prohibiting the disposal of property. In this way, it contributes to greater transparency of the proceedings and strengthens legal certainty in legal transactions.

A purchaser of movable property whose prohibition on alienation and encumbrance has not been entered in the Register, or of immovable property not entered in the Real Estate Cadastre and not subject to a registered prohibition, is presumed to act in good faith. This presumption is rebuttable, and the burden of proving bad faith rests on the party alleging it. (Nikolić & ŠarkiĆ, 2022, p. 824). The centralised Register of Court Injunctions enhances legal certainty by providing timely information on restrictions affecting the disposal of property, thereby protecting both enforcement creditors and third parties.

4.2. Electronic Records Maintained by Public Enforcement Officers

Pursuant to Article 503 of the LES records, of enforcement and security proceedings, as well as records relating to the financial operations of public enforcement officers, must be maintained. In order to regulate in greater detail the manner of maintaining such records, the Rulebook on the Method of Maintaining Records of Enforcement and Security Proceedings and the Financial Operations of Public Enforcement Officers, the Method of Reporting, the Content of Public Enforcement Officers' Activity Reports, and the Management of Archives (Official Gazette of the Republic of Serbia, Nos. 37/2016, 50/2018, 47/2019, and 6/2020) was adopted. The current legal framework provides for records to be maintained in both written and electronic form. Public enforcement officers are required to enter case-related data into the electronic system, where they are integrated

into the central database of the Judicial Information System. The electronic records must correspond to the case file and are retained permanently.

5. Comparative Overview of the Digitalisation of Enforcement Proceedings in Croatia

The Republic of Croatia has implemented significant reforms in the field of the digitalisation of enforcement proceedings with the aim of increasing efficiency, cost-effectiveness, and the overall speed of the proceedings. Particularly noteworthy are the electronic filing of motions for enforcement based on an authentic instrument, the introduction of the e-Notice Board, and electronic public auctions conducted by the dedicated Financial Agency (FINA).

The filing of a motion for enforcement in electronic form is carried out through the information system. A motion for enforcement based on an authentic instrument is submitted to the municipal court within whose territorial jurisdiction the enforcement debtor has his or her residence or registered office, through the information system. Exceptionally, it may be submitted in physical form through FINA, which forwards it electronically to the competent court. Pursuant to Article 36a of the Croatian Enforcement Act (2012), these motions for enforcement are automatically assigned to notaries public acting as court commissioners on an equal basis and according to the alphabetical order of their surnames through the electronic system. The Rulebook on Forms in Enforcement Proceedings, the Manner of Electronic Communication between Participants, and the Manner of Assigning Cases to Notaries Public (2021) further regulates the manner of electronic communication between the participants in enforcement proceedings and the allocation of cases to notaries public, who conduct enforcement proceedings in Croatia. Croatia has centralised certain functions within FINA, thereby ensuring greater uniformity in the administration of enforcement proceedings. By contrast, Serbia, through its decentralised model, preserves competition among public enforcement officers. Another important digitalisation mechanism is the electronic court notice board (e-Notice Board), integrated into the unified judicial information system (eSpis), which enables the electronic publication of judicial decisions and other court documents. While Serbia also provides for such record-keeping, its practical level of automation remains uncertain. This mechanism improves transparency, access to information, and procedural efficiency.

6. The Impact of Digitalisation on the Procedural Position of the Parties

The digitalisation of enforcement proceedings has a significant impact on the procedural position of the parties, as it transforms the traditional manner in which rights are exercised and protected in enforcement proceedings. Digitalisation should not constitute an end in itself but rather a means of facilitating the more efficient and simpler exercise of the parties' rights (Nastić, 2025, p. 248). In the context of the digitalisation of enforcement proceedings, access to electronic services may constitute an additional obstacle for parties who lack sufficient technical knowledge or appropriate technological equipment (Ontanu & Tjong Tjin Tai, 2025, p. 102).

Unequal access to digital technologies may create *de facto* inequality between the parties by limiting the effective exercise of procedural rights and access to justice (Jelisavac Trošić & Gordanić, 2023, p. 384). The full digitalisation of proceedings cannot achieve its intended purpose unless the parties possess an adequate level of digital literacy and are capable of using electronic systems effectively (Gomez, 2024, p. 825). Continuous education of all participants in the justice system, including the training of judges and other legal professionals, is therefore essential, as it constitutes a prerequisite for the effective implementation and appropriate use of digital technologies within the judiciary (Okeke, 2026, p. 17). Although the digitalisation of enforcement proceedings has a predominantly positive impact on efficiency, transparency, and accessibility, it must be accompanied by appropriate procedural safeguards, effective party notification, user education, and measures to prevent *de facto* procedural inequality.

CONCLUSION

The digitalisation of enforcement proceedings in the Republic of Serbia has significantly improved the efficiency, transparency, and accessibility of enforcement proceedings without altering the scope of the parties' procedural rights, but rather the manner in which those rights are exercised and protected. The introduction of electronic filing of motions for enforcement, electronic service of documents, electronic public auctions,

electronic registers, and integrated information systems has contributed to faster communication, more efficient case management, and greater legal certainty. At the same time, the analysis has shown that technological development cannot be regarded as an end in itself, but must remain a means of ensuring more effective judicial protection and improving access to justice.

The comparative overview of the Croatian legal framework demonstrates that the successful digitalisation of enforcement proceedings depends not only on the introduction of modern technological solutions but also on their coherent institutional organisation and the establishment of adequate procedural safeguards. At the same time, the Croatian experience confirms that digitalisation alone cannot eliminate the risk of digital exclusion or guarantee equal access to justice for all participants in the proceedings.

The analysis indicates that the further development of digitalisation in Serbian enforcement proceedings should be accompanied by stronger procedural safeguards, improved notification mechanisms, continuous user education, and measures aimed at enhancing the digital literacy of citizens. Particular attention should be devoted to ensuring that persons who lack adequate access to digital technologies or sufficient digital skills are not placed at a procedural disadvantage. Only a balanced approach that combines technological innovation with effective protection of procedural rights can ensure that digitalisation contributes not only to greater procedural efficiency but also to the effective protection of procedural rights and the realization of the right to a fair trial.

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