

Dušan Protić

PROBLEMS AND OBSTACLES IN ACCESS TO JUSTICE IN ENFORCEMENT PROCEDURE FROM THE PERSPECTIVE OF CONSUMER PROTECTION

with models of continuous monitoring of enforcement process



USAID
FROM THE AMERICAN PEOPLE





USAID
FROM THE AMERICAN PEOPLE

PROBLEMS AND OBSTACLES IN ACCESS TO JUSTICE IN ENFORCEMENT PROCEDURE FROM THE PERSPECTIVE OF CONSUMER PROTECTION

with models of continuous monitoring of enforcement practices

"Access to justice in enforcement proceedings – building a model through consumer protection lens" project supported by the USAID Rule of Law Project

Author:

Dušan Protić



Belgrade, 2019

Unofficial translation

Abstract

The purpose of enforcement procedure is to settle a creditor's monetary or non-monetary claim based on an enforceable or credible legal document, reliably and effectively, in a legally regulated procedure. It is necessary, however, to ensure the protection of the rights of the debtor, as prescribed by substantive legislation and in accordance with the rules of procedure. A large proportion of such claims are from utilities and related services, in which the enforcement debtor actually has the capacity of the consumer, user of services provided. For this reason, the main objective of this paper is the analysis of the current state of consumer protection in enforcement proceedings, the identification of key problems and obstacles facing debtors/consumers, and the identification of possible models for a more active role for consumers and other organizations in the enforcement of the rights and interests of citizens.

In the research from which the information detailed here was collected, a qualitative method was applied, primarily involving interviews with key actors, public enforcement officers and representatives of the Public Enforcement Officers' Chamber, representatives of consumer organizations, enforcement judges, representatives of ministries, lawyers, and other relevant actors, as well as focus groups and roundtables to provide insight into the substance of the relevant issues as well as the reasons behind the findings and proposed recommendations.

The Law on Enforcement and Security, enacted in 2011, represented a systematic turn in the legal regulation of enforcement proceedings as compared to the inefficient procedure in the previous period, by introducing public enforcement officers as key actors in enforcement in most matters, establishing an efficient and legally foreseeable procedure with a very certain outcome in the successful settlement of the creditor's claims. A new Law on Enforcement and Security was adopted in 2015, which maintained the same basic principles and institutional arrangements, but significant changes to this current legal framework, based on practical experience, are underway.

While enforcement procedure is a consolidated system, well known and accepted by all key stakeholders, citizens who find themselves in the role of enforcement debtor are not sufficiently aware of their rights and obligations in the enforcement process. Many citizens can be found in the role of the debtor/consumer in the collection of utility claims, for instance, especially in major cities. Public utility companies are under the pressure of a short (one-year) statute of limitations on these claims, so they submit a relatively large number of proposals for issuing enforcement decisions on the basis of a credible document within a relatively short period after the debtors enter into arrears and regardless of the amount of the principal debt.

The law prescribes special rules for so-called communal cases: first of all, the document used in proceedings as a credible document is the calculation of the debts of individual consumers based on the bookkeeping of the PUC. Secondly, the enforcement order is issued by the public enforcement officer and not the court in order to ensure the effectiveness of the creditor's motion. On the other hand, the motion is enforced only after its legal validity, which is an exception to enforcement rules on the basis of a credible document, and the distribution of

cases is done evenly through the Public Enforcement Officers' Chamber, in order to prevent the "referral" of cases to particular public enforcement officers by the PUC. Unlike the previous rules of procedure, prior warnings are not necessarily part of procedure in these cases, so it is possible that the consumer is not aware of the existence, amount of, or basis for payment of, municipal debt until the enforcement decision.

In terms of exercising consumer protection in the context of enforcement procedures, it should be emphasized that municipal services in the light of the Consumer Protection Law fall into the category of services of general economic interest. In addition to general consumer rights, such as the obligation to give prior notice, and protections against unfair business practices and unfair contractual provisions, municipal services are subject to special rules. These include the regular and uninterrupted supply of service of an acceptable quality at a fair price, the advanced provision of all information on conditions of use of services (including the public announcement of these terms), prohibition of discrimination against consumers, calculation by application of prices determined by special regulations, provision of services at the prescribed quality level. However, procedure does not allow for the easy enforcement of these matters, since public enforcement officers are bound by the principle of formal legality of a credible document. In order to exercise these rights, it is therefore necessary to file a complaint in a timely manner in accordance with the rules of consumer law or a consumer complaint through one of the consumer organizations. An enforcement decision can be objected to, however, as a rule, the hearing continues in litigation.

Research indicates, however, that key consumer protection issues are not necessarily related to enforcement procedures themselves, but rather to the practices involved in applying them. Most problems, both from the points of view of public enforcement officers and consumers, are related to the delivery of decisions and other documents, the identification of the debtor, and the timely notification of the essential facts for the procedure. Failures to actually receive decisions or delivery notices, even when formal presumptions are made through the court notice board, create an insurmountable obstacle to the protection of consumer rights, making it impossible to apply the acceptable legal remedy, objections of the debtor, as well as the ability to settle the monetary claim eight days after the delivery of the decision. Misinformation about the debtor complicates proceedings not only for the creditor, but also creates additional costs for the debtor, without his or her fault, and sometimes directs enforcement towards the wrong person or subject. Delivery through the bulletin board, after a second unsuccessful delivery to the debtor's address, creates a legal fiction of orderly delivery, but has no practical significance for the debtor, essentially leaving him or her without the only effective legal remedy in these cases, to object to the enforcement decision.

There are also a number of problems raised by consumer organizations regarding the calculation of total debts for utilities. These include incorrect posting, incorrect calculations of total debts, nonexistent debts, deviations from the accepted conditions of quality of the provided service, payment for services not provided, outdated receivables, and the practice of "posting balance," the reconciliation of payments with the oldest debt, whether or not related to the period in question. The statute of limitations on debt is the most common area of consumer complaints in these cases, and according to the experience of consumer organizations, in these matters the court regularly adopts the statute of limitations for the relevant part of the calculation that is the subject of the ruling. The alleged irregularities on the part of the PUC, as a creditor in the

proceedings, may even be characterized by features of unfair commercial practice in terms of consumer law, but they need to be examined either before or after the procedure itself.

The costs of pursuing procedures have also been identified as a problem for debtors/consumers in enforcement. Irregularities are possible in the calculation or recognition of costs, both on the parts of the creditor and public enforcement officers. In addition, the amount of final costs in municipal service cases is often disproportionate to the amount of principal debt, which can also lead to consumer misunderstanding or public outrage.

When citizens act as debtors in enforcement, they do not have access to adequate legal assistance and counseling, it is their perception that the actions of public enforcers violate their rights and that citizens do not have fair access to justice. In addition, public enforcers have a negative reputation in the public through their presentation in the media, based on individual cases that are sensationally, unprofessionally and unbiased portrayed, most often related to cases of eviction or the sale of real estate. Sporadic legal assistance is provided to citizens, through citizens' rights organizations and consumer organizations, in cases that are relevant from the point of view of the application of consumer protection rules.

The role of consumer organizations is, potentially, crucial to accessing consumer justice in this matter. This is due to the limited use of legal services in cases of enforcement of claims from utilities, given the relatively high costs of attorneys' fees compared to the claim, and the lack of appropriate forms of free legal aid. The only existing form of legal aid available to debtors in consumer matters is regional consumer advice, where consumer organizations provide legal assistance and advice to consumers, yet with limited material, technical and human resources. In addition, consumers are not sufficiently aware of the work and capabilities of consumer organizations, and this information is not obtained by public enforcers during the process. The public enforcement officer has a legal obligation to mediate between the parties for the purpose of amicably settling the enforcement creditor. For this reason, the question arises of the possibility of referring the debtor to consumer or other organizations providing legal assistance in these cases in order to create the conditions for reaching an agreement.

The recommendations that can be derived from the research findings are as follows:

1. It is necessary to raise the awareness of citizens about their rights and obligations in terms of consumer protection, municipal service matters and enforcement procedures from communal services.
2. Consideration should be given to improving the reliable delivery of enforcement orders and other enforcement documents. Possibilities for improving the method of delivery and notification of the initiation of procedures include notification of leakage of documents on the court electronic panel and documenting the delivery action.
3. A review of the costs that burden enforcement in municipal service cases should be performed. Proposals for reductions in such costs (that ultimately burden the debtor) include exempting the creditor from including the costs of drawing up a motion for enforcement based on a credible utility bill at attorney's rates, as well as the costs incurred by public enforcement officers in obtaining information about the debtor.

4. Citizens should be advised of the possibility to contact consumer organizations in a timely manner for legal assistance regarding consumer complaints about utilities and related services, as well as after initiating enforcement proceedings.
5. The existing “Regional Consumer Counseling” program should be supplemented with additional activities and resources to help with consumer problems in municipal service matters, including enforcement in these cases.
6. It is necessary to improve the legal assistance capacities to debtors in utility cases by providing them with information on consumer organizations providing such assistance, and by exchanging information between public enforcers, consumers, and organizations to develop a model of continuous monitoring of consumer problems in this area and provide appropriate measures for improvement.
7. A more active role of public enforcement officers is needed in the mediation procedure between parties in municipal service cases, in cooperation with the representatives of organizations participating in proceedings in the interest of debtor/consumers.

In order to ensure greater transparency in the work of public enforcement officers, to improve their accountability, to ensure a continuous exchange of enforcement data, and, in particular, to improve the delivery of legal assistance to debtors/consumers, it is necessary to examine the possibilities for establishing a permanent monitoring structure for consumer protection in enforcement proceedings by civil society organizations. Based on the findings of the research conducted and the conclusions drawn, the following two models of monitoring consumer protection in enforcement proceedings are given: Option 1 – building a network of consumer organizations and Option 2 – building a local monitoring mechanism.

TABLE OF CONTENT

I.	Introduction.....	Error! Bookmark not defined.
I.1.	Aim of the research.....	Error! Bookmark not defined.
I.2.	Methodological approach to research	Error! Bookmark not defined.
I.3	Study structure	Error! Bookmark not defined.
II.	Legal framework.....	Error! Bookmark not defined.
III.	An overview of the main actors and the position of consumers in the enforcement process Error! Bookmark not defined.	
II.1.	The place and role of consumer and other organizations.....	Error! Bookmark not defined.
II.2.	Specificities of enforcement cases in public utilities and consumer position ...	Error! Bookmark not defined. not defined.
IV.	Key Consumer Protection Issues in Enforcement	Error! Bookmark not defined.
IV.1.	Delivery and prior notices.....	Error! Bookmark not defined.
IV.2.	Inaccurate information about the debtor	Error! Bookmark not defined.
IV.3.	Unavailable court bulletin board	Error! Bookmark not defined.
IV.4.	Calculation problem compiled by Infostan and contents of authentic document.....	Error! Bookmark not defined.
IV.5.	Character of calculation as authentic documents	Error! Bookmark not defined.
IV.6.	Cost of the procedure.....	Error! Bookmark not defined.
IV.7.	Third party objection.....	Error! Bookmark not defined.
IV.8.	The principle of (non) proportion	Error! Bookmark not defined.
IV.9.	The problem of legal aid.....	Error! Bookmark not defined.
IV.10.	Right to housing.....	Error! Bookmark not defined.
V.	Proposed Amendments to the Law on Enforcement and Security	Error! Bookmark not defined. defined.
VI.	Conclusions and recommendations	Error! Bookmark not defined.
IV.1.	Conclusions.....	Error! Bookmark not defined.
IV.2.	Recommendations.....	Error! Bookmark not defined.
VII.	Options for defining a model of continuous monitoring of consumer protection in enforcement proceedings.....	Error! Bookmark not defined.
VII.1.	Option 1 - Consumer Organizations Network.....	Error! Bookmark not defined.
VII.1.1.	Model description.....	Error! Bookmark not defined.
VII.1.2.	Model structure	Error! Bookmark not defined.
VII.1.3.	Activities.....	Error! Bookmark not defined.
VII.1.4.	Results of the mechanism.....	Error! Bookmark not defined.

VII.1.5. Overview of the monitoring mechanism scheme - Consumer Organizations Network	Error! Bookmark not defined.
VII.2. Option 2 - Local monitoring mechanism	Error! Bookmark not defined.
VII.2.1. Model description.....	Error! Bookmark not defined.
VII.2.2. Model structure	Error! Bookmark not defined.
VII.2.3. Activities.....	Error! Bookmark not defined.
VII.2.4. Mechanism results.....	Error! Bookmark not defined.
VII.2.5. Outline of local tracking mechanism schema	Error! Bookmark not defined.

I. Introduction

Amendments to the legal framework for enforcement and the introduction of public enforcement officers have ensured the efficiency and legal certainty of the procedure, which was not guaranteed in the previous period. The decisiveness of the application of court decisions has been significantly improved, the influx of a large number of cases that the court cannot resolve, and, in particular, the conditions of business and legal clarity in Serbia have been improved.

On the other hand, citizens are not sufficiently aware of their rights and obligations in enforcement proceedings. In particular cases in which citizens are affected by enforcement, they do not have access to adequate legal assistance and competent counseling, which creates the perception that the actions of public enforcers are violations of their rights and that they do not have adequate access to justice. In addition, the work of public enforcers has a negative reputation in the public based on the media and on individual cases that are sensationally, unprofessionally and unobjectively portrayed, most often related to cases of eviction or the sale of real estate. Sporadic legal assistance is provided to citizens, through citizens' rights organizations and consumer organizations, in cases that are relevant from the point of view of the application of consumer protection rules. For the first time since the introduction of European consumer protection rules into the domestic legal framework, this research examines how these rules are reflected in the enforcement process. At the same time, a significant share of cases under the jurisdiction of public enforcement officers concern the collection of claims from utilities and related services, which, by their content, imply the application of consumer law. Citizens who appear in these cases in the position of the debtor, therefore, have the rights and obligations of consumers within the scope of the law on consumer protection. With this in mind, in addition to the general rules of enforcement procedure and legal protection in enforcement, there is a need for legal assistance to protect consumer rights, and thus, an increased role of consumer organizations.

I.1. Aim of the research

The purpose of this research is to improve the existing state of consumer protection in the enforcement process and to define possible models that provide a more active role for consumer organizations in this matter. Specifically, the identification of problems and obstacles faced by consumers and civil society organizations in the field of enforcement should be ensured, to work towards providing a higher level of protection for citizens' rights and interests. Secondly, a documentary basis should be provided for the development of recommendations for improvements in this area. Finally, based on the findings of the research, it is necessary to

develop options for establishing a mechanism that enables the involvement of consumer and other organizations in monitoring citizens' problems in enforcement proceedings and proposing measures to address these problems.

1.2. Methodological approach to research

The basic methodological approach in the conducted research involved a qualitative method, in order to provide insight into the essence of the relevant issues, as well to explain the findings and proposed recommendations. Quantitative analysis of the numerical data that was available or provided in the research was used as a secondary and supplementary method. The analytical framework of the research involved studying the problem and defining the key issues to be explored. The research methodology consisted of qualitative data collection techniques to provide factual information, supplemented by archival analysis and research, which allowed for certain quantitative considerations. Semi-structured interviews were conducted with key stakeholders, public enforcement officers and representatives of the Public Enforcement Officer's Chamber, representatives of consumer organizations, enforcement judges, representatives of the Ministry of Justice and the Ministry of Trade, Tourism and Telecommunications, attorneys handling enforcement cases, and representatives of other relevant actors (such as actors interested in the protection of human rights, the informal community of citizens "Krov nad glavom", and others). Document analysis provided additional information, which was considered in every stage of the research, from the development of the analytical framework and basic interview questions to the final thematic framework of the analysis and the presentation of recommendations. Given the iterative nature of the qualitative methodological approach,¹ it was important to revisit and establish links and relationships between findings gathered from different techniques and at different stages of the research in order to extract the essence of the problems under study.

The research covered current regulations, relevant case studies, reports from competent authorities, professional literature, as well as other documentary sources, including media articles. Research also collected various documents from individual organizations that address specific issues under analysis, such as forced evictions in the light of human rights protection.² In addition, field research included semi-structured interviews with relevant actors, such as representatives from consumer organizations, civil rights organizations, public enforcers, representatives from the Ministries of Justice and Commerce, the Public Enforcement Officers' Chambers and lawyers handling cases in the field. Two focus groups were organized in Belgrade and Leskovac respectively, where some of these key issues were discussed in a moderated and directed thematic discussion. During these interviews and discussions, particular attention was paid to some of the forthcoming amendments to the Law on Enforcement and Security, about which information from the ministry's working group is available in the media. As part of the consultation on the research findings, a thematic round table was held, which was the first

¹ Dey, I. (1993). *Qualitative data analysis: A user-friendly guide for social scientists*, p. 273

² The research covered reports, articles and information available through social networks, prepared and submitted or published by the informal citizens' initiative „Krov nad glavom“, in the context of the issue of protection of the right to housing in enforcement proceedings.

opportunity to find public enforcement officers and representatives of consumer organizations at the same table, and to discuss some of the identified key issues in a dynamic and constructive discussion.³

I.3 Study structure

The study is presented in seven chapters: after the introductory chapter, the second chapter gives a brief overview of the relevant legal framework in this area, constituting the relevant rules of enforcement and consumer protection. Chapter III provides an overview of the positions of the main actors in enforcement proceedings that are relevant to the subject matter of the research (as a rule, actions against individuals in consumer matters, such as the so-called public services). In this chapter, issues of the status and roles of consumer (and other) organizations and the specificities of enforcement cases in public services are highlighted. Chapter IV provides an overview of the key outstanding consumer protection issues in the enforcement process. The most recent amendments to the Law on Enforcement and Security, in light of the topic of the study, are set out in Chapter V. Chapter VI contains the conclusions and recommendations of the study, and Chapter VII sets out policy options, outlines two models of continuous monitoring of consumer protection in enforcement proceedings.

II. Legal framework

An enforcement system based on the practice of public enforcement officers, as a judicial profession entrusted with appropriate public authorization by law, was introduced by the Law on Enforcement and Security of 2011.⁴ According to this law, there was a significant change from the previous legal regime of enforcement proceedings, previously entirely based on the jurisdiction of the court and the conduct of authorized officials within the judicial administration in such cases.⁵ Based on the same basic principles and legal solutions with certain changes in the nomenclature and certain procedural and organizational provisions, the Law on Enforcement and Security of 2015 was adopted and is being renamed today.⁶ As the previous decades-old system was judged to be extremely inefficient, to the extent that the enforcement of court decisions was, as a rule, called into question in practice, the new system was a radical turn, marked by legal, and organizational, as well as wider social, consequences. One such consequence is a high degree of the certainty of enforcement, in the areas in which public

³ Roundtable "Enforcement Proceedings from the Consumer Perspective", held in Belgrade on 11.06.2019. with the participation of representatives of the Ministry of Justice and the Ministry of Trade, public enforcement officers and representatives of the Chamber of Public Enforcement Officers, representatives of the majority of registered consumer organizations, lawyers, judges for enforcement procedure and other key actors.

⁴ Law on Enforcement and Security ("RS Official Gazette" No. 31/2011)

⁵ Law on Enforcement Procedure ("RS Official Gazette", No. 125/04)

⁶ Law on Enforcement and Security ("Official Gazette of RS", No. 106/2015, 106/2016 - authentic interpretation and 113/2017 - authentic interpretation); hereinafter referred to as ZIO

enforcement officers act.⁷ This was a circumstance that was of great importance for changing the social perception of enforcement proceedings, now with a well-defined position and importance in achieving legal certainty in individual cases, and with a practical significance and meaning given to the term “enforcement,” with documents or court decisions being, in actuality, enforced. The law contains procedural provisions, rules of enforcement procedure, as well as organizational rules, which regulate the conditions and work of public enforcement officers and the Public Enforcement Officers’ Chamber. For the implementation of this law, many bylaws were also enacted, creating a complete and comprehensive legal framework for the work (and supervision of) public enforcement officers.⁸ During the course of the research and the consultation phase, the draft amendments to the Law on Enforcement and Security were in the process of preparation, so some recommendations related to this process, were subsequently introduced into the Law.⁹

The rules governing the terms of service of general economic interest, including utilities and related services, along with the special rights of users of services having a “consumer” character, are laid down in the Consumer Protection Law.¹⁰ In accordance with this law, certain associations and consumer protection associations (hereinafter: consumer organizations) operate and have certain powers, which acquire this property by subscription and special records.¹¹ In enforcement proceedings, the rules of civil procedure are applied accordingly, in

⁷ According to 2016 data, on a sample of cases falling within the jurisdiction of public enforcers, 58.09% ended with a conclusion, 27.08% with suspension, and 14.83% with dismissal; source: "Analysis of the Enforcement System in Public Enforcement Officers in 2016", Sasa Stankovic, USAID-BEP

⁸ Pursuant to legal authority, the Ministry of Justice has the following by-laws: Rulebook on the manner of keeping records of enforcement and security procedures and financial operations of the public enforcement officer, the manner of reporting, the content of the report on the work of the public enforcement officer and the manner of handling the archive ("Official Gazette of RS", Nos. 37/2016 and 50/2018); Rulebook on the manner of keeping the directory of public bailiffs and deputies of public bailiffs and directories of partnership companies of public bailiffs ("Official Gazette of RS", No. 62/2016); Rulebook on General Conditions for Concluding Insurance Contracts for Public Enforcement Officers ("Official Gazette of RS", No. 62/2016); Public Execution Tariff ("Official Gazette of RS", No. 59/2016); Rulebook on Disciplinary Proceedings Against Public Enforcement Officers ("Official Gazette of RS", Nos. 32/2016 and 58/2016); Rulebook on Public Examiner Exam ("Official Gazette of RS", No. 58/2016); Ordinance on the shape, appearance and size of the seal of a public enforcer ("Official Gazette of RS", No. 58/2016); Rulebook on the Form of Identification of Public Enforcement officer and Deputy Public Enforcement officer, Issuance and Destruction of Identification and Records on Issued Identifications ("Official Gazette of RS", No. 58/2016); Rulebook on the procedure of public competition for appointment of public enforcement officers, composition of the competition commission and manner of its work ("Official Gazette of RS", No. 58/2016); Rulebook on Supervision of the Work of Public Enforcement Officers ("Official Gazette of the RS", No. 32/2016); The Chamber of Public Enforcement Officers passed the following regulations: Rulebook on the Register of Legal Understanding ("Official Gazette of RS", No. 74/2018); Rules of Procedure of the Ethics Committee ("Official Gazette of RS", No. 63/2018); Rulebook on Supervision of the Work of Public Enforcements and Deputy Public Enforcements ("Official Gazette of RS", No. 63/2018); Rulebook on Initial Training of Candidates for Public Enforcements ("Official Gazette of RS", No. 29/2018); Rulebook on acting on the request of the enforcement creditor to the chamber of public enforcement officers for designation of the public enforcement officer to whom a proposal for enforcement is submitted on the basis of a credible document for settlement of a monetary claim arising from utilities and related activities ("Official Gazette of RS", No. 29/2018); Rules of Procedure of the Council for the Unification of Practices in Enforcement and Security Procedures ("RS Official Gazette", No. 19/2018); Rulebook on Remuneration for Work and Cost Reimbursement of Bodies, Members of Bodies and Members of the Working Bodies of the Chamber of Public Enforcement officers ("Official Gazette of the RS", No. 13/2018); Rulebook on Determination of Registration Fees and Membership Fees of the Public Enforcements Chamber ("Official Gazette of RS", No. 13/2018); Rules of Procedure of the Assembly of the Public Enforcements Chamber ("Official Gazette of RS", No. 96/2017); Rulebook on the Form of Identification of the Assistant Public Enforcement Officer, Issuance and Destruction of Identification and Records on Issued Identifications ("Official Gazette of RS", No. 35/2017); Code of Ethics for Public Enforcement Officers ("Official Gazette of RS", No. 105/2016) and Statute of the Chamber of Public Enforcement Officers ("Official Gazette of RS", No. 105/2016)

⁹ For details on amendments to the Law on Enforcement and Security, Chapter IV. of this document

¹⁰ Law on Consumer Protection ("Official Gazette of RS", No. 62/2014, 6/2016 - other law and 44/2018 - other law); hereinafter referred to as the LCP

¹¹ Rulebook on the Content and Manner of Keeping Records of Consumer Associations and Associations and Conditions for Enrollment ("Official Gazette of RS", No. 21/2015)

which objections to enforcement decisions made on the basis of a credible document, leads parties, as a rule, to litigation. In addition, as litigation contains specific rules in consumer disputes, the Law of Civil Procedure¹² completes the procedural framework of consumer protection in such cases. Bearing in mind that special attention in this document is devoted to enforcement cases in the field of utilities, the legal framework of relevant legal regulations also includes the Law on Utilities¹³, sectoral regulations that specifically regulate certain utilities and related services, namely in the fields of energy, waste management, water supply, telecommunications. Regulations of local self-government units, focused on the conditions for the provision of district heating services, the supply of drinking water and wastewater disposal, the removal and disposal of municipal waste, and public parking services, among others, are also considered.¹⁴

In the context of access to justice, the protection of citizens' rights and the possibility of obtaining legal assistance, it should be borne in mind that a new Law on Free Legal Aid¹⁵ was recently adopted, which should regulate the conditions, manner and forms of providing legal assistance and support in a systematic manner.

III. An overview of the main actors and the position of consumers in the enforcement process

In order to examine possibilities for protecting the rights and interests of citizens in the enforcement process, through the greater role of consumer organizations and human rights organizations, it is first necessary to analyze the key actors in this procedure. The main focus of this research is enforcement cases concerning claims arising from a relationship between a natural person as a debtor in an enforcement procedure, with a status, at the same time, as a consumer in the light of consumer protection regulations, on one hand, and a creditor, primarily a legal entity engaged in commercial activity (with the status of a trader in terms of consumer law), on the other.¹⁶ In addition, another subject of our attention is the enforcement of forced evictions of natural persons, in light of protection of the right to housing as one of the rights guaranteed by international standards.. Although these are apparently two different groups of cases, the common denominator is the need to provide adequate legal assistance to individuals who hold the position of debtors and to build a monitoring mechanism that would make such assistance more effective.

The term “enforcement debtor,” in terms of the Law on Enforcement and Security, means a person for whom a claim is entered in enforcement proceedings or secured in a security procedure.¹⁷ On the other hand, the term “consumer,” in terms of the Law on Consumer

¹² Law on Civil Procedure ("Official Gazette of RS", No. 72/2011, 49/2013 - US decision, 74/2013 - US decision, 55/2014 and 87/2018); hereinafter referred to as the LCP

¹³ Law on Utilities ("Official Gazette of RS", No. 88/2011, 104/2016 and 95/2018)

¹⁴ More details on the legal aspect of consumer protection in public utility cases, in part of this document II.2.

¹⁵ Law on Free Legal Aid (Official Gazette of RS, No. 87/2018)

¹⁶ Consumer Protection Law ("Official Gazette of the RS", No. 62/2014, 6/2016 - other law and 44/2018 - other law) defines the term consumer as a natural person who supplies goods or services on the market for the purposes of are not intended for his business or other commercial activity, and the concept of a trader as a legal or natural person who appears on the market in the course of his business or for other commercial purposes, including other persons acting on his behalf or on his behalf. (Article 5, Paragraph 1, Items 1) and 2) of the LCP)

¹⁷ Law on Enforcement and Security, Art. 2 st. 4

Protection, indicates a natural person who purchases goods or services on the market for purposes other than those intended for business or other commercial activity.¹⁸ Starting from the thematic framework of this document, key issues related to citizen's positions in enforcement procedures and the possibilities of legal protection of their interests as debtors, will be discussed below, in the terms of enforcement procedures based on credible documents for the settlement of monetary claims from public utilities and related services. These individuals, in these cases, have a simultaneously status of both debtors and consumers.

An enforcement creditor, in terms of the Law on Enforcement and Security, is a person whose claim is settled in enforcement proceedings or secured in the process of securing.¹⁹ The enforcement creditor is the titular of the claim, and, in this research, we examine cases in which this property belongs to public utility companies providing and charging for utilities, or utility companies for the integrated collection of utilities in the same local government.²⁰ Such a creditor, in the light of the Consumer Protection Act, has the capacity of a trader, as a legal or natural person (including other persons acting on his or her behalf) who appears on the market in the course of his business or for other commercial purposes. In addition to this, there are also service providers of general economic interest, which will be discussed later.²¹

The public enforcement officer operates in the capacity of the holder of public authorization, appointed by the Minister of Justice by an individual act, to operate in the jurisdiction of a particular higher or commercial court. Consequently, as a holder of public authorization, a public enforcement officer is not permitted to exercise any other liberal or judicial profession, or to hold any public office. The public enforcement officer cannot refuse to carry out the execution of creditors' requests and takes all actions in accordance with the principles and rules of the enforcement procedure. The legal form in which a public enforcement officer performs his business is usually as an entrepreneur, and the law also provides for the possibility of performing in this function as a member of a partnership company whose members are exclusively public enforcement officers. The law does not contain a definition of the term public enforcement officer, but provides for a number of organizational, procedural and disciplinary provisions that detail their legal status and powers.²²

The Public Enforcement Officers' Chamber is a significant actor in the enforcement system, not only as a professional organization, but also as a regulator and supervisory authority over the work of public enforcement officers. The Public Enforcement Officer's Chamber (hereinafter: the Chamber) is a professional, non-profit association consisting of all public enforcement officers. The bodies of the Chamber are the Assembly of the Chamber, the Enforcement Board of the Chamber, the Supervisory Board of the Chamber, the president of the Chamber, the deputy president of the Chamber, the disciplinary prosecutor of the Chamber, the deputy disciplinary prosecutor of the Chamber and other bodies as designated by the Statute of the Chamber. It is important to note that, in this thematic context, the Chamber is responsible for, among others, measures for the promotion and affirmation of the judicial profession of public enforcement officers, and the submission of initiatives for amendments to all acts and regulations relevant to the profession of public enforcement officers, and through its bodies, follows

¹⁸ Consumer Protection Law, Art. 5 st. 1 point 1.

¹⁹ Law on Enforcement and Security, Art. 2 paragraph 2

²⁰ Hereinafter referred to as: utility companies or PUCs

²¹ Consumer Protection Law, Art. 5 st. 1 point 1) and 24)

²² Law on Enforcement and Security, Part Seven, Art. 468 to 544

legislation and gives recommendations, expert opinions and guidance in order to harmonize the practice of public enforcement officers.²³

According to the Law on the Organization of Courts, the basic court as well as a commercial court conduct enforcement proceeding if the parties are economic entities, in commercial matters.²⁴ In terms of the division of competencies in enforcement proceedings between the court and public enforcement officers, the court has exclusive jurisdiction over the joint sale of real estate and movable property, acts, acceptance or non-acceptance and the execution of enforcement documents relating to family relations and the return of an employee to work.²⁵ In the cases that are the focus of this research, the jurisdiction to decide on a motion for enforcement belongs to public enforcement officers, and the role of the court is primarily related to ruling on solutions in those cases. In addition, it should be noted that in the event of an appeal against enforcement decisions based on a credible document, the parties are referred to litigation before the same competent court.

The Ministry of Justice is a key institutional actor in the drafting of public policy in the field of enforcement, as a body competent in the preparation of law governing enforcement and security, and responsible for passing some bylaws based on the powers under that law. In addition, the ministry is responsible for determining the number of public enforcement officers, keeping records of people who have passed the public enforcement officer exam, maintaining the directory of public enforcement officers and deputies of public enforcement officers, conducting (or dismissing) public competitions and appointing public enforcement officers, as well as setting standards for their professional conduct. Of particular importance are the powers of the Ministry of Justice, along with the Public Enforcement Officers' Chamber, regarding the supervision of the work of public enforcement officers. Supervisory powers include, but are not limited to, requests for reports and documentation, access to the work of the public enforcement officer's office, access to records of enforcement procedures conducted, actions taken, and their financial operations.

The Ministry of Trade, Tourism and Telecommunications, which covers the area of consumer protection should be among the key players in this matter.²⁶ This ministry is responsible for consumer protection policy, drafting laws and regulations in this area, keeping records of consumer organizations and implementing support programs for their work. The ministry carries out supervision through market inspection, partially concerning violations of consumer protection rules, as well as with a separate administrative procedure for the protection of consumers' collective interests.

In addition to the mentioned parties to enforcement proceedings, the law recognizes certain rights of (and the possibility of legal protection of the interests of) third parties, as "participants in proceedings with claims to prevent enforcement."²⁷ The third party may be the owner of an

²³ Law on Enforcement and Security, Art. 513 to 522, Statute of the Chamber of Public Enforcement Officers ("Official Gazette of RS", No. 105/2016), Rules of Procedure of the Council for the Unification of Practices in Enforcement and Security Procedures of 7 February 2018

²⁴ Law on the Organization of Courts ("Official Gazette of RS", No. 116/2008, 104/2009, 101/2010, 31/2011 - other law, 78/2011 - other law, 101/2011, 101/2013, 106/2015, 40/2015 - other law, 13/2016, 108/2016, 113/2017, 65/2018 - US decision, 87/2018 and 88/2018 - US decision), Art. 22 and 25

²⁵ Law on Enforcement and Security, Art. 359 - 367

²⁶ Law on Ministries ("Official Gazette of RS", No. 44/2014, 14/2015, 54/2015, 96/2015 - other law and 62/2017), Art. 8.

²⁷ Law on Enforcement and Security, Art. 2 paragraph 6

entity included in the enforcement order, or the debtor of the debtor himself. A third party may file a complaint with the public enforcement officer requesting that the enforcement order be declared inadmissible in the case, and may file a complaint until the completion of enforcement proceedings.

III.1. The position and role of consumer and other organizations

One of the goals of this research is to find a model for consumer organizations to track enforcement cases in the form of an independent mechanism. Consumer organizations can play a significant role in providing legal assistance to enforcement debtors by highlighting the importance of implementing the Consumer Protection Law in enforcement proceedings concerning utility cases.

Consumer organizations are citizens' associations, established and registered in accordance with the law governing the establishment and legal status of associations, whose area of focus is consumer protection if they are nonprofit and independent, especially from traders and political parties. The Ministry of Commerce keeps a record of consumer organizations that meet these enrollment requirements, associations that have been active in the field of consumer protection for at least three years, with the human, material and technical capacities necessary to carry out consumer protection activities, and if the representatives of the associations possess adequate experience, expertise and skill to perform consumer protection activities.²⁸ By entering this record, the consumer organization acquires certain rights and obligations, namely to compete for incentive funds of the ministry, the right to initiate proceedings to protect the collective interest of consumers, as well as to represent the interests of consumers in court and extrajudicial proceedings when legally possible. These interests are represented in consultative bodies in the field of consumer protection at the national, regional and local levels, playing a role in the work of working groups in the preparation of regulations and strategic documents governing consumer rights, access to the use of the National Consumer Complaints Register for the purpose of receiving, recording and acting on consumer complaints, and participation in the Consumer Council, as a body that gathers all registered organizations.²⁹

At this moment, the record contains 26 registered consumer organizations, with this number not significantly changing since 2015.³⁰ Of particular importance in the work of consumer organizations, especially concerning their ability to provide legal assistance and advice to consumers, is the program of regional consumer advisories, funded annually by the Ministry of Commerce, and currently covering the work of seven organizations in four regions. This program also finances, among other things, the involvement of legal experts in the field of consumer protection, who regularly advise consumers and provide them with legal assistance

²⁸ Consumer Protection Law, Art. 134.

²⁹ Consumer Protection Law, Art. 135.

³⁰ <http://zastitapotrosaca.gov.rs/evidentirana-udruzenja.php>; two organizations were registered in the interim, but some were also deleted from the records.

in the form of correspondence, submissions or the provision of legal advice for their consumer complaints.³¹

In particular, it should be noted that registered consumer organizations have the right to nominate representatives for membership in special advisory bodies and complaint resolution committees, which are obliged to educate providers of general economic interest in accordance with the Consumer Protection Law, of which all utility providers fall into this legal category.³²

In addition to consumer issues, a great deal of public attention is paid to forced evictions, for surrender or sale of real estate. These cases are not generally related to consumer matters, with almost none recorded concerning matters of utility billing, but representatives of human rights organizations are involved in interviewing and other forms of data gather to address these issues as a matter of continuous monitoring of enforcement cases by civil sector organizations. In this area, there is no national support scheme for the work of civil sector organizations, unlike for consumer advisories, and legal assistance or support is provided sporadically, according to resources provided by international support projects. The recently enacted Free Legal Aid Law advocates for the establishment of an improved system in this area, with the legal solutions contained therein being restrictive, creating legal constraints and conditions for providing free legal aid and not encouraging civil society activism or providing an adequate basis for the development of possible state programs incentives to provide legal support.³³

In light of the protection of the right to housing, and in relation to matters relating to immovable property in enforcement proceedings, the informal organization “Joint Action *Krov nad glavom* (*Roof over the head*),” a collective engaged in the fight for the protection of the right to housing, providing legal assistance and organization, is of great importance. Direct actions that draw the public's attention to problems in the field of real estate enforcement. This collective is very active, mainly in the form of aggravation or obstruction of actions taken by public enforcers in certain cases, and their influence is exercised through social networks and parts of the media³⁴.

III.2. The specifics of enforcement cases in utility matters and the position of consumers

The position of debtors in enforcement proceedings is not unknown to many Serbian citizens, especially in large cities, given the relatively common incidence of forced enforcement of claims in the field of utilities. This is also the most common situation in which citizens encounter public enforcers, in forced debt collection for utilities through the so-called “integrated billing” process for district heating services, drinking water supply and wastewater disposal, the removal and disposal of municipal waste, electricity for the common consumption of residential buildings, public parking services and services such as telecommunications. The structure and method of payment for public utilities is the responsibility of local self-government, which regulates and

³¹ The budget of the Republic of Serbia for 2018 and the Ministry's Financial Plan for 2018, to support the programs of the Consumers' Association, has provided funds in the amount of 20,000,000 dinars, and the maximum amount that can be approved on the proposal of the program of the Regional Consumer Counseling Program may be 3,000,000 dinars.

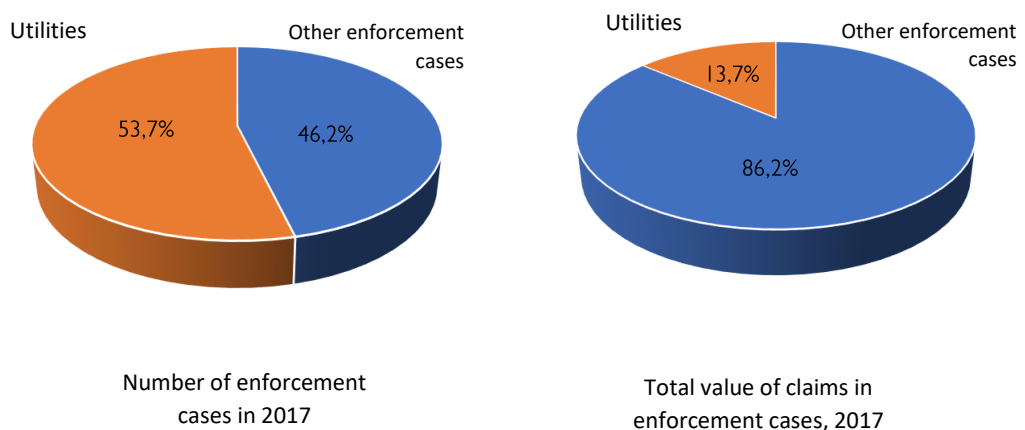
³² Consumer Protection Law, Art. 82 and 92.

³³ Law on Free Legal Aid (“Official Gazette of RS”, No. 87/2018); shall apply from 1 October 2019

³⁴ Such an approach has found criticism from the experts, that pointed out that this collective should be more involved in expert discussions than in unreserved and uncritical support for the persons, debtors in procedure, who address them.

dictates the manner and conditions of performing communal activities in its area, establishes public utility companies for performing these activities, as well as, if necessary, for the unified payment of prices of these services to end users.³⁵

Enforcement cases based on a credible document for the collection of claims in public utilities and related activities represent by far the largest number of cases in the total number of enforcement actions conducted by public enforcers, viewed by type of enforcement document. This share in 2016 was as high as 81.6% of total cases.³⁶ These items, however, have a relatively low level of actual billing success - below half of the total (44.9%) - with 34.4% of claims suspended and 20.6% discarded.³⁷ The following year, the share of communal objects was reduced, so that it amounted to 53.7% of the total number of cases in operation in 2017, with the total amount of claims for settlement in communal objects amounting to 13.7%.³⁸



End-users of utilities which fall into the so-called household category are actually natural people - consumers in the light of consumer protection regulations. The Law on Utilities is, unfortunately, not sufficiently clear about the nature of the legal relationship between a public utility company performing a certain utility activity and the end user,³⁹ even if that user is individually identified and has a user-based relationship. Namely, the Law on Utilities relies on the oversight of the local self-government unit, which prescribes the mutual rights and obligations between utilities and users, as arbiter of contractual relations and general business conditions. The occurrence of a contractual relationship is determined on the basis of either an explicit decision or (if not regulated) by commencement of the use of the utility service, that is, the commencement of the provision of the utility service in accordance with the regulations governing the performance of that utility activity.⁴⁰ On the basis of these legal provisions, it can be concluded that the relationship between the provider and the utility is implicitly defined as a

³⁵ Law on Local Self-Government ("Official Gazette of RS", No. 129/2007, 83/2014 - other law, 101/2016 - other law and 47/2018), Art. 20th century Point 1 2) and Art. 7th c. 1.

³⁶ "Analysis of the Public Enforcement System in 2016," by Sasa Stankovic, USAID-BEP, p. 11

³⁷ Ibid.

³⁸ Data from the 2017 Annual Report on Business of Public Enforcement Officers, Public Enforcement Officers' Chamber

³⁹ Hereinafter referred to as PUC

⁴⁰ Law on Utilities ("Official Gazette of the RS", Nos. 88/2011, 104/2016 and 95/2018; hereinafter: ZKD), Art. 13

contractual relationship, and therefore subject to the rules of obligation law as well as relevant consumer protection rules.

On the other hand, the main disadvantage of this legal solution is the lack of distinction between communal orders and communal services, and it is already visible in the legal definition of communal services, which places in the same category the activities provided to an indefinite circle of users, such as. provision of public lighting, market management, street and road maintenance, cleanliness of public areas or maintenance of public green spaces, and activities that in their content are a service because they are directly provided to certain end users, such as drinking water supply, drainage waste water; heat supply, municipal waste management or urban and suburban passenger transportation, as well as management of public parking. However, different legal regimes apply to these two groups of utilities, one fully governed by imperative regulations of national and / or local rank, and the other of a contractual nature. The law uses in many places the term "utilities", whether of a general nature or in connection with a specific utility (eg "chimney sweeps", "funeral services"), but does not give a definition of this term, nor a clear distinction from communal activities. Such confusion extends throughout the regulation and results in the inability to classify utilities, into utility (*utility services*) and general (*utilities, in the narrow sense*), and, consequently, to link the relevant legal aspects⁴¹. In particular, utilities include, inter alia, issues related to the way relationships are established, general conditions of service, quality and scope of service, financing from the service charge (service price), methodology for calculating the price for the service provided, payment, and the corresponding application of contract law rules. , and finally, compliance with consumer protection rules when the customer is a household, ie. an individual who uses these services for his or her personal and household needs. On the contrary, the features of general utility services are that they do not have a designated user, that they are performed in the context of public law and relevant sectoral and local regulations, that they imply financing and / or appropriate utility fees, and that the manner and conditions of their performance can be exercised exclusively within the process of citizen participation in political decision-making and decision-making processes at local government level. Such a general legal framework has resulted in this distinction not being contained in most of the relevant decisions of local self-government governing the manner and conditions of performing communal activities.

The described problem of the legal "invisibility" of the concept of utilities has consequences on the stated relation between the user/natural person/consumer and the public utility company. First, users themselves are not fully aware that the services they are provided and charged for are contractual in nature, even if that contract was an adhesion contract⁴², and that they have certain rights regarding the scope and quality of the service, the methods and conditions for calculating the price of the service, the ability to file complaints on the service provided, or ultimately, the right to demand termination of the contract. On the other hand, according to the experience of the interviewed representatives of consumer organizations, public utility companies in their business practices treat the services they provide as being an imperative

⁴¹ In terms of conceptual confusion, the provision of Art. 27. ZKD, which refers to the authority of "the local self-government unit to determine and charge a fee for utilities for performing utilities in which the end user cannot be determined". Although it is clear from the content of this provision that it refers to a fee for the financing of general utilities, determined here under the criterion of a non-certified user, the determinant of remuneration is related to "utilities", which is a completely opposite situation.

⁴² An adhesion agreement, that is, an access contract, is one in which the tenderer binds to accept all the conditions contained in the form which he proposes and does not agree to any amendment.

obligation for end users, even though they are aware of the essentially contractual character of their business, and even apply consumer protection rules, at least in formal terms.

In addition, this relationship is further complicated by the economic and legal position of public utility companies for consolidated collection, collecting claims which each determines for themselves, calculating the amount of compensation for each user according to the valid price list based on the volume of utilities provided. Prices are determined by the third actor, the assembly of the local self-government unit, which decides unit prices, the manner and conditions of calculation, as well as any special conditions for separate categories of users. Consequently, the consumer-trader relationship in the utility sector is complex and opaque to the end-user consumer. Some of the consequences of such an institutional framework will be discussed later, and it should be noted here that in the enforcement procedure, the public utility company has a consolidated charge as a creditor, which is not responsible for any complaints regarding the quality, price, volume, and conditions of certain utilities that it charges, except with respect to the collection of receivables itself, which is established and accounted for by the service providers.

Another significant specificity of utility matters is the short expiry date of claims. According to the general obligation rules, a one-year statute of limitation is prescribed for claiming compensation for electricity, heat, gas, water, chimney services and the maintenance of cleanliness, when the supply or service is made for the needs of the household.⁴³ The same provision stipulates that the statute of limitations for these claims shall run even though deliveries or services have been extended. Such a short period of limitation is a key factor in driving enforcement proceedings, as utilities do not, as a rule, have the possibility of temporarily suspending service due to nonpayment of bills (as in telecommunications services or electricity). Consolidated public utility companies or single public utility companies that independently conduct collection are constantly under pressure to initiate a timely proceeding, especially after case law has confirmed that the warnings they send to their users do not have the effect of interrupting the statute of limitations, but require the initiation of a payment procedure.⁴⁴

In addition to the legal framework governing utilities as well as the sectoral one for certain types of services, it should be noted that these services fall into the category of *services of general economic interest*, in the light of consumer protection regulations. The law defines these services as services whose quality, terms of service and price are governed by a public authority, in particular because of the high value of initial investment, the limited resources needed to provide it, and needs for sustainable and regional development, social solidarity and uniformity, in order to satisfy the general social interest.⁴⁵ In addition to general consumer rights, the law also provides for a set of special consumer rights for users of such services, such as the right to an orderly and uninterrupted supply of the utility at an appropriate quality of service and a fair price, advance provision of information on the conditions of use of services and public disclosure

⁴³ Law on Obligations ("Official Gazette of the SFRY", No. 29/78, 39/85, 45/89 - Decision of the USJ and 57/89, "Official Gazette of the FRY", No. 31/93 and "Official Gazette" SCG ", No. 1/2003 - Constitutional Charter), Art. 378.

⁴⁴ In practice, issues related to certain utilities, such as an "additional parking ticket", arise, in which cases it is established in case law that a one-year statute of limitations should also apply (Judgment of the Supreme Court of Cassation, Rev 430/2014 of 17.12.2014 Law on Obligations ("Official Gazette of the SFRY", Nos. 29/78, 39/85, 45/89 - decision of the USJ and 57/89, "Official Gazette of the FRY", No. 31/93 and "Sl. Gazette of SCG ", No. 1/2003 - Constitutional Charter), Art. 378.

⁴⁵ Legal provisions resulting from the legal transposition of the relevant provisions of Directive 2002/22 / EC on universal service, Directive 2009/72 / EC on electricity and Directive 2009/73 / EC on natural gas.

of those terms, prohibition of discrimination against consumers, and a calculation of prices as set by special regulations. Additional obligations include notification 30 days before the start of application of the new tariff for the service, as well as, within the same 30 days, notification of changes in pricing methodology and general terms of the contract. Of particular importance is the requirement for special termination of these contracts, in the event that the consumer does not agree to a price change or a change in the general terms of the contract or is not satisfied with the quality of the services provided.

With respect to the validity of a credible document in enforcement proceedings in utility cases (in practice a calculation compiled by a utility company), it is important to note that the Consumer Protection Law prescribes an obligation that the invoice submitted to the consumer allows the consumer to check and monitor the amount of indebtedness, as well as to gain insight into current consumption, in order to check total consumption according to the quality of service provided⁴⁶. Among other measures, providers of services of general economic interest are obliged to set up advisory bodies, to include representatives of registered consumer organizations, as well as special committees for resolving consumer complaints, which must also include representatives of registered consumer organizations.⁴⁷

Finally, the rules of enforcement in these cases are also specific. The enforcement procedure in communal matters is a variant of execution on the basis of a credible document, with this document a calculation compiled by public utility company, as an excerpt from the business books on performed utilities or related services.⁴⁸ The law, moreover, contains special rules for the execution of claims arising from utilities and related activities.⁴⁹ Firstly, it provides for the authority of the public enforcement officer to decide on the request and to make the enforcement decision, outside of the court. In order to avoid the earlier practice of "directing" enforcement proposals from public utility companies to certain public enforcers, these special provisions also provide for a mechanism for the random and equal distribution of cases to locally competent public enforcement officers, implemented in the previous procedure by the Public Enforcement Officers' Chamber. The court shall decide on objections against the decision, and if the objection is upheld, proceedings shall continue as in the initial order against the debtor, leading to litigation. A significant difference from enforcement actions based on the decision of the court is that an enforcement decision on the basis of a credible document is executed only after it becomes final.⁵⁰ On the other hand, unlike in the general rules of delivery, as well as in the procedure on the basis of a credible document, in these cases it is necessary to repeat the delivery before it is displayed on the notice board of the competent court.

From the above examples, it should be noted that there are a number of specific features involved in enforcement for the collection of monetary claims on utilities. There are also special rights that the debtor, as a consumer, has in relation to the utility provider in light of consumer

⁴⁶ Consumer organizations during debate suggested that this legal solution is incomplete, because it does not envisage a way of financing such participation of their representatives, and it raises the question of the possibility of covering a large number of these positions with representatives of registered consumer organizations (only 26 at the moment), so in practice this mechanism is generally not operational or is of a purely formal nature, where participation ends with the formal appointment of one representative to the committee, without factual participation.

⁴⁷ Consumer Protection Act, Art. 83 to 92

⁴⁸ Law on Enforcement and Security ("Official Gazette of RS", No. 106/2015, 106/2016 - aut.tum. And 113/2017 - aut.tum.), Art. 52.

⁴⁹ Law on Enforcement and Security, Art. 392 to 413

⁵⁰ Law on Enforcement and Security, Art. 133. para. 2

protection regulations in the contractual relationship from which claims arise, which should be kept in mind when considering the legal situation in this area, as well as when examining individual enforcement acts in these matters.

IV. Key Consumer Protection Issues in Enforcement Practices

The identification of problematic elements that arise in enforcement cases and in the practice of public enforcement officers, primarily in enforcement cases against debtors as utility users, is the result of research conducted into the existing legal framework, the existing institutional and organizational solutions, the practices of competent holders of public authority, and the experiences of consumer organizations and parties to these proceedings. As stated in the part of the study related to its methodological approach, representatives from all main stakeholder groups participated, and expressed their views and opinions through interviews, the submission of contributions, and participation in focus groups and round table discussion, among other forms of communication.⁵¹

When considering research findings, it should be borne in mind that the starting point and reference position from which the situation in this field is analyzed is that of a citizen, a natural person who appears as a debtor in enforcement proceedings. The focus of the research is also on only a part of the casework produced in the practice of public enforcers, as this project does not focus on the entire existing enforcement system or enforcement procedure in a general sense. While some systemic issues are certainly specifically reflected on this matter, the system as a whole has not been examined, and the proposed solutions are not intended to call into question the enforcement system through public enforcement officers.

IV.1. Delivery and prior notices

In examining the practice of public enforcement officers, one of the most frequently asked questions is the issue of the orderly delivery of documents in enforcement procedures. Delivery issues are also noted by public enforcement officers and other actors, such as representatives of consumer organizations, but from a different angle. Public enforcement officers point to problems with delivery such as the debtor avoiding receipt of letters, messy personal information, physical inability to deliver, and other reasons that primarily relate to the debtor's actions and behavior. Consumer organizations, on the other hand, draw attention to complaints they receive from citizens that they did not have any prior information on delivery, or even notification of the delivery of a letter, the most common method taken in an enforcement decision.⁵²

⁵¹ The exception is PUC "Infostan" Belgrade, as the largest single billing utility company in the country, which has been repeatedly interviewed with relevant representatives, received no feedback, nor did representatives respond to an invitation to participate in a thematic roundtable held on 11.06.2019. In Belgrade

⁵² The Provider is obliged to leave in the post office box of the debtor or elsewhere at his address a notice containing the debtor's personal name, a property in the proceedings, an indication that it will be displayed on the court notice board in the next business day, the name and address of that court and a warning that after the expiration of eight days from the expiry of the written notice on the notice board of the court it is considered that the delivery has been made (Article 36, paragraph 3 of the Law on Public Procurement)

In practice, these problems are particularly related to the delivery of enforcement decisions, which, in public utility cases are brought by the public enforcement officer and delivered to the debtor. These deliveries are done predominantly by mail with registered delivery, delivered by the staff of the public enforcement officer's office, but they occur in practice. There are numerous objections to this system, primarily pointed out by representatives of consumer organizations, which refer to irregular deliveries, deliveries in which the letter cannot be found or out of reach of the debtor, to be found rejected by third parties.

The problem of orderly delivery of court and other official documents is a common problem in Serbia, faced by most state bodies and services. It can be observed that there is a cultural phenomenon (in the form of a commonly held opinion) that not accepting a request in writing will delay or eliminate the problem. Such a delivery never brings good news, and the natural reaction is an attempt to avoid it. Guided by the idea that the problem will go away on its own, as well as the past experiences with successful long-term escalation of receiving such letters, the consumers/citizens put themselves in a difficult position: after the second unsuccessful delivery, the solution the competent court follows is to consider that eight days have elapsed. The consequence of this practice is that citizens are sometimes, justifiably or not, engaged in enforced collection of which they did not even know or expect, with no means of avoidance. An insufficient level of legal culture of citizens in this regard results in difficulties in working out the situation in legal manner, the loss of the right to challenge the credibility of the enforcement or refutation of the decision on another basis.

Interviews and focus group experiences highlight the problem of legal uncertainty that arises as a result of this mode of delivery, as no objective proof of delivery is in fact required but the assertion of the person in charge of delivery in writing, especially if it belongs to the employees of a public enforcement officer.⁵³ For a possible idea for solving this problem, among others, there is a request for some form of documenting delivery, that is, leaving a notice detailing data from the case being executed, and the place and time of expiration of the letters at the notice board of the court in the enforcement debtor's mailbox or another convenient location at the debtor's address. In practice, however, a large number of enforcement officers make delivery by mail, as costs are lower and debtors have more confidence in notices received through postal delivery.

Although this is not an action taken in enforcement proceedings, it is also worth mentioning the common practice of public utility companies working towards consolidated collection to simultaneously and cyclically send a massive number of warnings before pressing utility claims. According to the earlier rules of enforcement, this was a necessary action before the enforcement of the enforced payment. However, this delivery was previously by registered mail, and now delivery is by regular postal delivery. For example, at early this year the public utility company Infostan Belgrade sent pre-litigation warnings to the addresses of 140,000 Belgraders who exceeded the deadline for payment of their bills by more than 90 days, a debt from February 2018 to the last calculated month.⁵⁴ According to data available to consumer organizations, a large number of these reprimands did not reach recipients, as the time of

⁵³ Focus Group Findings in Leskovac (10.04.2019) and Belgrade (23.04.2019)

⁵⁴ "Crowds at Infostan Counters Receive Sentencing Notices," RTS:

<http://www.rts.rs/page/stories/sr/story/125/drustvo/3442513/guzve-na-salterima-infostana-stigle-opomene-pred-utuzenje.html>

delivery and a clear deadline for timely payment were not provided.⁵⁵ Although the Law on Enforcement and Security no longer enforces an obligation on creditors to provide the public enforcement officer with proof that he has sent a letter of formal notice to the enforcement debtor at the address specified in his or her ID card, Infostan Belgrade is nonetheless obliged to send a letter of warning based on the city's decision on how to pay for utilities, with a payment deadline of at least 15 days.⁵⁶ At the same time, this is an important action in accordance with the obligation to inform consumers in a timely manner about their rights and obligations when using services of general economic interest, in the light of the special consumer rules cited above. In the practice of public enforcement officers, one of the most common questions or concern, of debtors who are in the status of consumers is why they did not receive a warning to pay their debt before enforcement procedure, in which case they would immediately settle their arrears. Consumer organizations indicate that this practice has shown that it was wrong to repeal an earlier statutory provision of the ITA on the prior mandatory delivery of a notice by registered mail as a condition for initiating enforcement proceedings.

The moment of delivery of the decision on execution is of great importance for the further course of the enforcement procedure, as well as for the successful protection of the rights of citizens, the enforcement debtors. Prior notification of possible debts to the debtor by the creditor, the proper and successful sending and delivery of the notice, should be a necessary step that prevents the initiation of enforcement proceedings for the forced collection of these claims in the case of utility companies. Although this is a technical issue, the action taken in the delivery process causes the most problems in enforcement cases of a consumer character, according to the interviewee.

IV.2. Inaccurate information about the debtor

Closely related to disorderly or unsuccessful delivery is the incorrect or inaccurate identification of the debtor, the utility user. On one hand, the cause of this phenomenon is related to service user negligence, not informing proper authorities of change of residence. On the other hand, some irregularities related to the misidentification of persons or inaccurate information about them is a consequence of incorrect or inaccurate data kept with the creditor. Public utility companies do not have the authority to access Unique Identity Number (JMBG) data, which results in an inability to establish records based on customer personal data, leaving them to rely on utility service records instead.⁵⁷ If the enforcement officers have an incorrect JMBG or do not have one at all, they must contact the Ministry of the Internal Affairs in writing, which complicates the procedure and introduces special costs.⁵⁸

⁵⁵Consumer Rights Infringements Related to Infostan's March 2019 Remarks, Related to Incorrect Attorney Identification and Deception Related to Sender of Reminder, Incorrectly Indicating Payment Deadline for Reminder, Incorrect and Legally Uncertain Method of Delivery of Reminder, and Other Observed violations, the consumer organization Effektiva informs in detail on its website: <http://efektiva.rs/aktuelnosti-efektiva/potrosaci-aktuelnosti/infostan-opomene/>

⁵⁶ Decision on the Method of Paying Utilities in the City of Belgrade ("Official Gazette of the City of Belgrade", No. 24/2003, 11/2005, 2/2011, 34/2014 and 19/2017), Art. 17th c. 2:

⁵⁷ The Law on Public Utilities contains an obligation for the police to submit personal data for citizens, data for vehicles and other data from the records kept in accordance with the law at the reasoned request of the public utility operator, in order to collect the fee for the performed utility service after the payment deadline or the initiation of proceedings however, this obligation does not explicitly contain an obligation to submit the JMBG, which would be necessary in terms of legal rules on the protection of personal data.

⁵⁸ Obtaining data from state bodies, holders of public authorizations, other legal entities and entrepreneurs who need a public enforcer to effectively conduct the enforcement and security proceedings, is envisaged as an action that is charged with 10 points, where the point value is 120 dinars, without VAT. a (Public Execution Tariff, "Official Gazette of RS", No. 59/2016, heading 2)

In interviews with notaries, it has been pointed out that incorrect user identity data, addresses and other personal information is the biggest obstacle to these actions. It was also pointed out that the trivial misdemeanor penalties for not reporting a change of residence are not adequate to prevent such occurrences, and that a better mechanism should be found to influence citizens to duly report changes of residence. At the same time, public utility companies do not have sufficiently responsive systems, and users are not necessarily inclined to go through a bureaucratic procedure to change their data. To this should be added that with each change of user for a particular household, it is necessary to pay off all the previous debts of the previous user, no matter the situation or cost, which can be an unpleasant surprise for the new user. Administrative practices that make it impossible to quickly and efficiently change user information appear to be discouraging for consumers to report the changes in a conscientious and timely manner. The consequences are detrimental to both parties. Consumers may be surprised by claims for which they are not responsible, or, because of a change of residence, they are not able to receive and challenge enforcement decisions. Utility companies whose billing services provide the information to make such decisions, do not have up-to-date and accurate data, making it difficult to find the debtor, and increasing the costs and durations of proceedings. In addition, there are objective problems related to the inaccurate physical addresses of customers in rural areas.

More recently, however, this situation has been resolved to a considerable extent, as, since the beginning of 2019 public enforcement officers have access to the Judicial Information System (PISG), through which they can directly obtain up-to-date information on people and their residences. However, this change does not affect user information maintained by the creditor (the utility), which is entered in the execution proposal.

IV.3. Unavailable court display board

In cases of collection in utility matters, after the second unsuccessful delivery, an execution decision on the display board of the court follows, and it is considered that delivery of notice has been completed within eight days from the expiration date. In these cases, the debtor has some safeguards from the procedure, with an obligation for two deliveries of the notice of execution in the space of at least eight days before expiry on the notice board, and most importantly, enforcement only after the decision becomes final. However, in light of the above delivery and identification problems, it is not uncommon for even conscientious consumers/utility users to receive a final enforcement order of which he or she had no prior knowledge.⁵⁹

Delivery by highlighting the solution on the court display board is cited as one of the key problems in these cases. Citizens often have doubts about the correctness of the service provider's information, and according to representatives of consumer organizations, citizens are under the impression that public service providers use delivery rules so that they can enforce solutions in the short term, especially when delivering through their field service.⁶⁰ It is difficult to prove the existence of such a practice or to determine its frequency, but with a degree of probability this thesis can be accepted, certainly not as a frequent occurrence in the work of public enforcers, but in some cases. The legal fiction of orderly delivery via the court's bulletin board, pointing out letters as a means of initiating a particular proceeding or a specific action in the proceeding without the recipient having any other knowledge, poses a great risk to the legal

⁵⁹ Here, conscientiousness means not avoiding receipt of letters from registered delivery or through a delivery service.

⁶⁰ Focus group discussions in Leskovac and Belgrade

certainty of utility consumers. These are claims that the consumer may but may not have complete information about, as a notice that is sent may, but also may not, reach the consumer. If he or she does not find a notice of delivery of the letter at his or her address, which is not uncommon in practice, in order to be truly informed of the process moving forward, he or she needs to physically go to court for some reasons and examine the contents of the display board, unthinkable in practice. A particular problem is that in these cases there is no electronic display board, nor is there any form of electronic communication with either the creditor or the public enforcement officer.

IV.4. Calculation problem that compiles Infostan and the contents of a credible document

The credible document in the execution of claims from a public utility belongs, as a rule, to the calculation compiled by the public utility company for unified collection or for directly billing its services.⁶¹ In practice, the most common reason for initiating a forced collection procedure is, of course, the irregular payment of utilities. However, in the background of a credible document subject to enforcement, there are often a number of possible irregularities on the part of the creditor, such as incorrect posting, incorrect calculation of total debts, nonexistent debt, deviation from the conditions of quality of the provided service, ignorance of payment for the service, and, when it is not provided, outdated claims⁶². A particular problem is the appearance of unfair business practices used by utility companies through the so-called “posting balance” where payments for current receivables are diverted to the oldest unpaid receivables, which may be outdated.⁶³ There is a general absence of public utility company responses to complaints on insufficient quality of service and the elimination of failures.

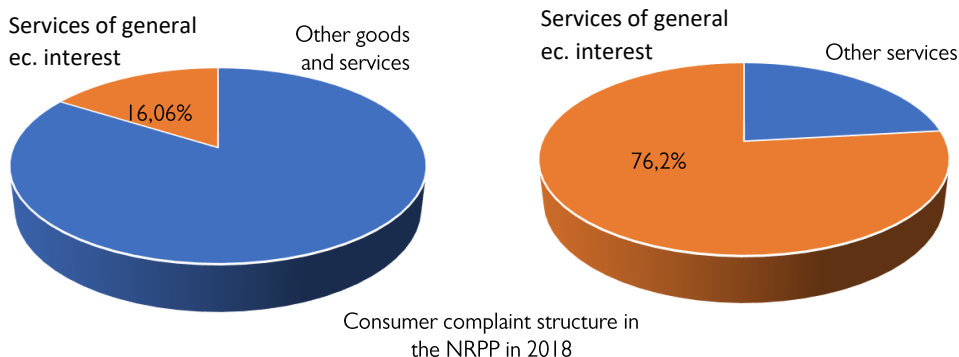
According to the Ministry of Trade, Tourism and Telecommunications, in 2018, a total of 26,823 consumer complaints were registered, of which 16.06% of complaints were related to services of general economic interest. According to the content of these complaints, the most common problems that consumers face are wrongly calculated costs that result in high bills, difficulties in paying debts or posting payments, and limitations in the quality of the service provided.⁶⁴ This number does not cover complaints submitted directly by public utility companies or service providers, but only consumer complaints submitted to consumer organizations covered by the Regional Consumer Counseling Program or directly through the online form, and, as a rule these complaints are filed after rejection of a previously filed complaint. In relation to the total number of consumer complaints, the proportion of those relating to services of general economic interest does not seem large, but at the same time it should be borne in mind that this is by far the largest share in the overall share of consumer complaints about services.

⁶¹ The law here provides for a special form of authentic document in the subject of public utilities, “an excerpt from the business books on performed utilities or related services” (Article 52, paragraph 2, item 4) of the Law)

⁶² Gvoić Željka i and Mladen Alfirović, “Analysis of Special Procedure for Collection of Utility and Similar Services”, National Consumer Organization of Serbia (NOPS); contributions from Effective and other consumer

⁶³ According to the information provided by Effective, PUC Infostan in May 2018 suspended the application of a balance system, which allowed it to automatically settle the oldest outstanding claim against the same consumer with every payment made by consumers, but warnings sent in recent times suggest that the balance system continues to apply.

⁶⁴ Report on the work of the National Consumer Complaints Register for 2018, Ministry of Trade, Tourism and Telecommunications; services of general economic interest covered by the Report include electricity, heating, water supply, as well as telecommunications services.



The law prescribes the principle of formal legality of an enforcement document, in which the court and the public enforcement officer are bound by an enforcement and authentic document when deciding on a motion for enforcement.⁶⁵ From the point of view of public enforcement officers, the issue of the account or calculation on the basis of which the procedure is initiated is irrelevant, since for them it comes down simply to examining the prescribed data they are presented, without a need to consider the data itself or the legal basis for issuing that document.⁶⁶ A credible document must also, in addition, cover all costs, including interest, as any claim of a creditor outside the document is not allowed.⁶⁷

The statute of limitations is the most common subject of consumer complaints in these cases, and according to the experience of consumer organizations, in these cases the court regularly adopts the statute of limitations for the relevant part of the calculation that is the subject of the decision.⁶⁸ However, it must be noted that the public enforcement officer does not necessarily examine the contents of the authentic document, nor look into the statute of limitations on the claim. Forward, there was more talk about the specifics of the one-year statute of limitations in the light of the general rules of obligation law, with respect to utility claims. Therefore, the consumer must take the date into account, and, after receiving the enforcement order, file a complaint in a timely manner challenging the decision due to outdated claims.

The short limitation period at the same time drives forward a hasty utility billing process, but also functions as a trap that many users fall into, failing to exercise their procedural right due to a lack of knowledge, capabilities or information about the course of the procedure. Public utility companies' business practices in this respect, in addition to the above "balance" of the system, contain other procedures that ensure the collection of these claims. In the first place, by sending a claim before the lawsuit, including a calculation of claims that sometimes include outdated claims, there is a calculated effect of intimidation for the majority of users, which upon receiving such a claim they will not pay the required amount without examining of the calculation, in order to avoid the forced payment, which they know is effective. The second is the "reprogramming" mechanism, which also includes outdated debts, and the consumer who

⁶⁵ Law on Enforcement and Security, Art. 5.

⁶⁶ An enforcement decision is issued if a credible document contains information about the enforcement officer and the debtor and the subject, type, extent and due date of the debtor's obligation (Article 53, paragraph 1 of the Law on Public Procurement).

⁶⁷ "The Enforcement Court cannot order enforcement to collect default interest on a principal debt when it is not provided for by an enforcement document." Commercial Court of Appeal Decision, Iz. - Case law of commercial courts - Bulletin no. 1/2018

⁶⁸ Consumer organizations interviews and contributions.

accepts this debt settlement program recognizes both those debts and the statute of limitations starts from the beginning. These are some of the practices that, according to consumer organizations' experiences and from focus group discussions, have long been present and are still emerging.

IV.5. Character of accounting as credible documents

The problem of cost specification in an account, especially for consolidated billing, is one of the most common complaints made by consumer organizations. Among other things, there is a practice of "mixing" different claims against different entities in the same account. In addition to the payment of utilities such as water or district heating, for instance, other claims, such as fees for the use of water or other, are also calculated fees, or obligations of third parties, such as the maintenance of an apartment building or the so-called total electricity consumption. As all of these claims do not have the same legal treatment as utilities nor even the same payer, there is a problem when they are all "put in the same basket" through consolidation of collection and entry in the books of creditors, specifically public utility companies for consolidated collection, and consequently introduced into the same process mechanism, and eventual forced collection. Other, numerous objections of consumer organizations to the conditions and manner of operation of public utility companies, as providers of services of general economic interest, including issues of how prices for provided services are measured and collected, will not be discussed in greater detail, as they fall outside the scope of credible documents on the basis of which enforcement processes are conducted. However, it should be noted that the consumer, as the enforcement debtor in proceedings, may, by his or her objection, challenge the decision on this basis as well, since this entails further proof in civil proceedings, for which objection is allowed, as a rule.

Consumer organizations point to the problem that even when a consumer submits a complaint about service or methods of calculation in a timely manner, and even in cases where the complaint relates to recording or posting of payments, there is no obligation for public utility companies to address such complaints on the bill. Therefore, in practice there is a compulsory collection of claims that were previously advertised, since the authentic instrument itself does not contain any indication of it.

In addition, there are technical problems with the shape and content of the so-called "unified payment slips." By dividing that document into an invoice, payment order and receipt, the public utility company Infostan is able to remove dates in certain places, which it uses to claim that the specific monthly receivable to which the account relates is not already settled, due to the absence of the indicated marks on the split payment slip, instead using payments towards the oldest unpaid claim. We were also told that while Infostan had returned the month and the year on payment slips and receipts, it did not return the due date, which still does not comply with Belgrade's decision on the method of payment for utilities.

In the background of billing problems is the complex relationship between the consumer/end-user relationship, public utility unified billing and the public utility provider, which makes it difficult for consumers to direct complaints to a service provider of general economic interest due to the process of consolidated collection in major cities, which breaks a number of mutual rights and obligations that are recognized as such under consumer protection regulations. Public utility companies for consolidated collection do not have the status of a service provider of general

economic interest, representing instead an "agency" that collects claims on its own behalf, and at the expense of more local utilities or other utilities, and sometimes collects claims that do not have such properties, such as stated above. In other words, regarding the quality of the service, including topics such as irregularity or denial of service, billing errors, and other remarks, it is necessary to directly address the provider of a specific utility (such as heating, water and sewerage, or urban cleanliness), and not a consolidated charge. However, in terms of financial liability, the relationship is between the consumer and the consolidated charge, with forced collection initiated for the consolidated charge, despite the fact that the public utility company implementing the charge has no direct means to impact the content of service, its calculations, quality, or eventual absence in some period. Therefore, the public utility company for unified collection acts solely as a sort of manager of other utility companies, so the consumer instead has to resolve all material complaints outside the collection situation, and thus outside the enforcement procedure, while non-payment on his or her end will lead solely to litigation.

IV.6. Cost of the procedure

The costs of the enforcement procedure shall be determined by the public enforcement officer, including the costs of the creditor related to the preparation of the proposal for execution and initiation of the proceedings, as well as the costs of the public enforcement officer, in accordance with the public enforcement officers' tariff. The Minister of Justice issues a public enforcement tariff, and, in conversation with public enforcement officers, it is understood that they have no direct influence on the content and amount of the items in the tariff, unlike lawyers, although there is a different opinion in public.

Indeed, the costs of enforcement and compensation for the work of public enforcement officers attract a great deal of public attention and often produce negative reactions. Execution costs include all costs incurred during the procedure itself, such as actions to collect information about the debtor, in the form of property, address or other personal information. Consumer organizations point to the practice of artificial cost increases by public enforcement officers, repeatedly taking actions that are not necessary, in order to increase fees paid by the debtor. Such abuses in the accumulation of unjustified costs arising from this issue can best be illustrated with practical examples. For instance, a public enforcement officer sent documents to the wrong address several times, based on a difference of one accent mark on one letter, before sending it to the correct address, but duly invoiced previous wrong deliveries.

A common complaint heard in discussions with consumers and consumer organizations is that the costs of public enforcement officers are too high, relative to the amount of claims and to the seemingly small amount of work related to a single subject of forced collection in utility cases. Indeed, these items are numerous and typed; public enforcement officers receive them in packages, according to the previously mentioned system of even and random distribution. Execution costs in collections are a significant item as the principal debt can be relatively small and the public utility company's enforcement process is initiated even for minimal amounts. Particularly noteworthy is the cost of the creditor, which public enforcements acknowledge in enforcement decisions, which includes the cost of drafting a decision.⁶⁹ In practice, in many cases the public utility company submits a large number of typed proposals, with a facsimile of the law

⁶⁹ According to the Tariff on Remuneration and Compensation of Attorneys' Charges ("Official Gazette of the RS", No. 121/2012), Traffic No 18 in connection with heading no. 13, for drafting a motion for execution, a lawyer's work fee of at least 200 points is calculated, ie. 6,000 dinars. In practice, there is also the fact that law firms, in accordance with the Tariff, reduce this amount by 50%.

firm that supposedly draws up the document, and bills for this service in accordance to the attorney's tariff, although circumstances indicate that the drafting of this document was done within the public utility company itself, which appears as a creditor. Unlike the mechanism of random and even distribution of utility cases to public enforcement officers, such a system of allocation is not applied for attorneys, so it is possible to go through the same law office with a relatively large number of proposals, to advance that entire amount of expenses to those offices, and then include such costs in the enforcement order. Such practices can be characterized as unfair business practices in the light of consumer protection rules, but also as illicit practices in the light of enforcement proceedings, creating unnecessary enforcement costs, which are ultimately passed to the debtor. In addition, contracting and providing legal services for simple jobs such as drafting a formal enforcement proposal based on a credible utility file, with all the data compiled by the public utility company's billing offices also presents a corruption risk, especially as creditors are publicly-owned enterprises.⁷⁰

IV.7. Third party objection

Third party objection is of great importance in cases of collection on movable property, in which the property of the lessor is with the tenant, or, in particular, with the sale of real estate subsequently subject to execution. As the enforcement creditor can only settle his claim from the property of the enforcement officer, when the enforcement officer who, during the execution, registers a movable property from the rented apartment which is the property of the landlord and not the tenant who is the enforcement officer, the landlord as a third party has the right to object until the completion of the enforcement proceedings third party. This complaint, together with enclosed proof of ownership of the property, requires a determination of inadmissibility of enforcement in the particular case. If the enforcement officer denies this objection, the owner of the property has the right to bring civil proceedings against the enforcement creditor in order to establish that the enforcement is inadmissible. One of the problems on this subject, however, is that initiating civil proceedings does not delay enforcement, and as a rule, civil proceedings take a long time. Also, after verifying the address of the debtor with the Ministry of Internal Affairs, the public enforcement officer lists movable items that are in the state, that is, in the possession of and not the property of the debtor.⁷¹

These items were not the focus of the research as they do not have the character of consumer goods. The issue of third party involvement in cases that are the focus of this research is not particularly common, but there are some cases, first of all, when determining the payment on the debtor's movable property and the practice of late and uncertain involvement in the third party proceedings, the extremely rare adoption of that complaint, measures because of the difficulty of proving. Namely, the third party is obliged to state in the complaint reasons for objection, and to enclose documents proving the existence of a right, otherwise the objection shall be rejected.⁷² In this way, there is an inequality of the parties in the procedure with regard to the manner of providing proof, since in the list and sale of the things of the debtor the legal presumption arises that everything in his state are the property of the debtor and that they can be subject to claims, with exceptions dictated by type and purpose.⁷³ In this way, the interest of

⁷⁰ Such cases have been documented in the State Audit Report on the work of PUC "Informatika" Novi Sad in 2013, and based on the reprimands received by consumers from "lawyers" in recent times, it is also felt that this practice is repeated (the report "Efektivno")

⁷¹ Focus group discussion

⁷² ZIO, Art. 108th c. 3

⁷³ ZIO, Art. 221 and 218.

the creditor is effectively protected, but the protection of the interests of the third party, who must prove that the property is owned by him or her and not by the debtor, is impeded. It is probable that in such circumstances, as well as a strict written form of evidence (ad-probationem form), already at the stage of filing of the complaint, that is, before the civil proceedings in which such evidence would be examined. Such a legal solution makes it very difficult to apply this remedy, especially in relation to movable property, and the rare adoption of this complaint in practice is a logical consequence.

IV.8. The principle of (non)proportionality

Violations of the principle of proportionality are a common form of complaint in the public sphere, especially in cases relating to the collection of real estate sales.⁷⁴ However, in practice, there have been virtually no recorded cases of the sale of real estate in utility enforcement cases. The Law on Enforcement and Security defines the notion of proportion in only two places, thus leaving room for arbitrariness in assessing the proportion between the amount of the obligation of the debtor and the value of the object of enforcement.⁷⁵

One of our interlocutors cited the case of a pensioner from Belgrade, with an apartment valued at an estimated €90,000 which was sold due to a debt of €6,500. One particular problem in this case is the fact that the apartment in question was sold at auction at €26,000. It is noted that it is the legal obligation of the enforcement officer to observe the principle of proportionality, although public enforcement officers often point out that these sales are merely the execution of a court decision.

In terms of real estate sales, consumer organizations and other interviewees point to problems with how auctions are conducted, often taking place under irregular conditions, with possible physical obstruction or obstruction of access to individual participants. Based on discussions with representatives of consumer organizations, it can be concluded that these auctions are often reserved for a narrow circle of people, where potentially only relatives or friends of the enforcement officer buy real estate at the auctions mentioned. Similar issues, especially in regard to the non-transparency of the enforcement process, are highlighted in a special thematic report by the Anti-Corruption Council.⁷⁶

IV.9. The problem of legal aid

Access to adequate legal aid may play a key role in protecting consumer rights in the enforcement process itself, especially given that, as a rule, the debtor has little economic interest in hiring a lawyer in a relatively low-value case, relative to the lawyer's possible costs. Although, in practice, lawyers can provide assistance at a minimum rate (50% of the amount of the Satisfaction Rate), and often pro bono, in municipal cases the debtor rarely hires a lawyer. In order to obtain adequate legal assistance, a consumer who has received an enforcement order generally only has the option of contacting one of the consumer organizations. Under the existing Regional Consumer Counseling Program, each of seven counseling centers in four regional centers has at least one hired lawyer, who provides legal assistance to consumers with

⁷⁴ The well-known principle of proportionality is indicated by the well-known Vaskrsic v. Slovenia case, in which a judgment of the European Court of Human Rights ordered Slovenia to pay EUR 85,000 to a citizen of that country for the sale of his house to settle a utility debt of EUR 124 (Case Vaskrsic v. Slovenia (31371/12) - Final Resolution RES (2018) 261

⁷⁵ Articles 56 and 527 paragraph 5

⁷⁶ Anti-Corruption Council, Report "Transfer of Enforcement to the Competence of Public Enforcement officers", no. 021-00-1855 / 2019 dated 21 February 2019

requests. Consumers address utility matters relatively frequently to these services, in relation to other matters, with such cases also affecting the handling of public service announcements and complaints. However, according to public enforcement officers, there are close to no recorded cases in which consumer organizations addressed public enforcement officers directly, and the public enforcement officers themselves are not familiar with the consumer assistance system. The conclusion that can be drawn from these observations is that consumers turn to consumer organizations for legal assistance, although this option is not always used in actual enforcement proceedings, and public enforcement officers do not refer them to this possibility. Also, another conclusion is that consumer protection organizations are not sufficiently visible or active, and it is necessary for them to improve the level of communication with public enforcement officers and the Chamber, through the organization of round tables, panel participation in expert consultations, participation in professional discussions, etc.

At this point it should be noted that there is a legal obligation for the public enforcement officer to mediate between parties in order to amicably settle the enforcement creditor.⁷⁷ As the enforcement debtor should not, as a rule, lack adequate legal assistance, a suspicion arises of such possible conduct by the public enforcement officer.

All interviewees agree that there is currently no reliable way of referring debtors/consumers to the assistance of consumer organizations, the only form of legal assistance available in these cases. As a rule, public enforcement officers have no contact with consumer organizations and it is rarely the case that a consumer organization directly contacts a public enforcement officer.

IV.10. Right to housing

Evictions for the sale of real estate make up an extremely small percentage of the total number of enforcement cases,⁷⁸ but these cases have garnered significant media attention, produced a sense of public solidarity with debtors, and significantly harmed the public image of the work of public enforcers. Moreover, in the context of these cases, a special civic action has emerged, as an informal community of citizens whose common aim is to protect the right to housing.⁷⁹

One key problem identified in discussion with representatives of this community and their associates from consumer organizations are the irregularities observed regarding the valuation of real estate, and in particular the methods and conditions of sale by auction. The abuses that occur include a lack of sale transparency, various modes of preventing interested parties from participating in these sales, as well as the sale of apartments to family members of public enforcement officers. In addition, when sold for the collection of receivables, there are notable violations of the principle of proportionality, in which real estate whose real market value (that would be realized outside the sale in enforcement proceedings) was significantly higher than that obtained through auction under conditions that are assessed by the interlocutors as irregular. A particular problem is the eviction of persons from real estate that is their only place of their residence, in which they live for a long period of time or which represent their only valuable property. There are notable examples of inhumane treatment of vulnerable groups of persons, such as the elderly, sick, and children as members of households against whom enforcement proceedings are carried out. In practice, situations arise in which a citizen may lose their

⁷⁷ Law on Enforcement and Security, Art. 137.

⁷⁸ According to estimates of interviewees from the ranks of public enforcement officers, only 1% of the total number of cases.

⁷⁹ „Združena akcija Krov nad glavom“, <https://www.facebook.com/zakrovnadglavom/>

apartment because they have not been entered in the real estate cadastre even though it was paid in a timely manner, or due to the negligence of the real debtor. There are also cases of eviction from real estate that cannot be reliably identified as the proper subject of enforcement, and as a consequence of imprecise disposition of the court's judgment, which nevertheless constitutes an enforceable title.⁸⁰

As stated above, in terms of the protection of consumer rights, forced eviction cases are almost unrecorded in practice. On the other hand, it should be noted that these matters are of great importance both to the citizens against whom such proceedings are conducted, as well as to the general public and the reputation of the public enforcement profession.

In the context of forced evictions, and even the practices of these organizations and citizens' initiatives, it is sometimes emphasized that the right to housing is a human right, but yet does not fall within the corpus of human and civil rights body prescribed by the constitution or relevant international conventions. However, the right to housing forms an integral part of international social law, in particular the European Social Charter. It is therefore an obligation of member states of this charter to ensure this right, through measures aimed at improving access to housing of an appropriate standard, preventing or reducing the occurrence of homelessness, to remove it gradually, and to make housing prices accessible to those without sufficient resources.⁸¹ Therefore, international standards for the protection of citizens' social rights include an obligation for the state to suppress deprivation of the right to housing, finding solutions in cases where persons or families lose their homes regardless of the correctness of the legal basis or eviction procedure, and such measures should that they also have their expression in the regulation of the enforcement procedure.⁸²

V. Amendments to the Law on Enforcement and Security

The amendments to the Law on Enforcement and Security, recently adopted, are relatively extensive⁸³. However, while a number of provisions are clarified, and some contradictions or unnecessary repetitions are removed from the existing text of the law, it does not substantially change the existing enforcement system and its basic functionalities.⁸⁴ The amendments relate to the extension of the exclusive jurisdiction of the court to cases of returning employees to work, the possibility to extend the exclusive jurisdictions of public enforcement officers by a special law, changes to the order of payment on real estate burdened with mortgages, the restriction of the subject of enforcement only to property needed for settlement, and the possibility of imposing a fine on any person who obstructs or prevents enforcement, among other areas. The valuation of real estate, in particular its sale at auction for the purpose of settling monetary claims, has been identified as a process with potential for extreme corruption in the

⁸⁰ Interview, Representative of the Interview, Representative of the

⁸¹ Law on Ratification of the Revised European Social Charter ("Official Gazette of the RS - International Treaties", No. 42/2009), Art. 31.

⁸² The Republic of Serbia ratified the Revised European Social Charter in 2009, but the cited Article 31 does not fall within the provisions which it has accepted as binding.

⁸³ Law on Amendments to the Law on Enforcement and Security ("RS Official Gazette", No. 54/2019)

⁸⁴ Bill amending the Law on Enforcement and Security of 14.06.2019. years

current practice of applying the law.⁸⁵ A legal innovation that would eliminate or significantly reduce irregularities in auctioning is electronic public bidding for the sale of real estate. In this model, more restrictions are added to who can bid on such properties, including public enforcement officers, their assistants and employees, and their relatives. It also envisages a limit of up to one half of collected earnings given to the enforcement officer, instead of the previous two thirds, and on the minimum earnings and on retirement up to one third of its height.

These changes also provide explicit authorization for creditors in utility cases to independently obtain data based on unique citizen identification numbers. Although formally extending the rights of the creditor, this novelty may indirectly produce a greater degree of legal certainty and work to limit one of the previously identified problematic occurrences in the practice of enforcement in utility cases, the inaccurate identification of the enforcement officer.⁸⁶ Another significant change in this area is the introduction of an electronic bulletin board. As noted above, the lack of actual notice of the delivery of an enforcement decision or other written procedure to the enforcement debtor by through the notice board of the court, is one of the key problems noted in many enforcement cases.⁸⁷ As the posting of the letter on the display board of the court has almost no practical significance and serves no other purpose than fulfilling the formal requirement for orderly delivery, this proposed solution can significantly improve the process of notifying the debtor. Electronic communication ensures efficient and cost-effective data transfer, and easy access and notification, as opposed to the current model in which location, access and visibility of the notice board and other circumstances present a problem in practice. On the other hand, there remains the issue of finding a technical solution to reliably notify the person for whom the notification is intended that it has been put out in writing on the court's electronic notice.

Changes in enforcement procedures of communal matters stipulate that the enforcement cannot be settled by the sale of the only real estate in the property of the debtor/consumer, in order to settle a claim whose principal amount does not exceed €5,000. This provision represents a concretization of the principle of proportionality in the context of communal cases, but in practice, as outlined above, no phenomena that would fall under this provision have so far been observed.⁸⁸ In addition, this amount is set relatively high, and at the level of the principal (not the total claim with interest and costs), so the question arises as to in which situation it is possible to incur a major debt for utility claims in such an amount, given the one-year statute of limitations on such claims. Therefore, it can be stated that this proposed change practically excludes the possibility of forced utility debt collection by selling the only real estate of the consumer who is the debtor in the given case, which should certainly be welcomed as a guarantee of the protection of consumer rights in enforcement proceedings.

It should be noted that the wording of the provision on the principle of proportionality has also undergone changes, since it is now required that the public enforcement officer *ex officio* take care that enforcement is carried out by the means most favorable to the enforcement officer, if there is a choice between multiple assets and enforcement objects.

⁸⁵ Anti-Corruption Council, Report "Transfer of Enforcement to the Competence of Public Enforcement Officers", no. 021-00-1855 / 2019 dated 21 February 2019; the problem identified in part of document IV.10.

⁸⁶ For details, see document IV.2.

⁸⁷ For more details, see section IV.1. and IV.3.

⁸⁸ As noted in part of this document IV.8.

The novelty is also a special procedure for the voluntary settlement of a monetary claim prior to the initiation of enforcement proceedings. This procedure is initiated by the enforcement creditor, who, in a proposal, submits a credible document proving the existence and maturity of their claim. The debtor is then notified by the public enforcement officer ("natural" in communal matters), putting into effect enforcement proceedings, and influencing the debtor towards voluntary settlement of the claim. The deadline for the agreement of the parties and the settlement of the creditor's claims is 60 days from the date of submission motions in this regard. Although this is an optional procedure, the decision of which is made by the enforcement creditor when submitting the proposal, its legal consequence is the delay of the statute of limitation for the duration of the procedure, a maximum of 60 days in the case of an unsuccessful outcome. The procedure involves an advance at the expense of the enforcement creditor, but the foreseeable delay in the statute of limitations for collection of claims, and a less oppressive effect in relation to the enforcement debtor, may influence a large number of utility creditors (public utility companies) to just opt for this procedure. The voluntary settlement procedure is certainly more favorable for the debtor, providing more time and opportunities for complete information on the subject and amount of debt, as well as flexibility of communication with the creditor with the mediation of the public enforcement officer. Specifically, in utility matters, this would imply that the consumer, as the debtor, after being notified of the initiation of a voluntary settlement procedure, examines the facts of the debts contained in the enforcement creditor's settlement, a credible document useful in checking that all payments recorded and the calculation of individual items are correct, and whether there are grounds for any complaints that could be presented to the creditor during the allotted to reach an agreement and collect claims. Should this model become more widespread in practice, implemented in accordance with this rationale, there is potential for significant progress in the elimination of consumer problems that arise in connection with the settlement or content of the creditor's assessment.⁸⁹

On the other hand, the amendments also include provisions that further favor the position of enforcement creditor in municipal matters. In addition to the existing procedural rules introducing a special form of enforcement procedure based on a credible document, characterized by increased efficiency, the exclusive competence of public enforcers and special properties of a credible document, the law further facilitates the process of enforced collection of these claims. In particular, the applicable law recognizes the authenticity of an extract from company accounts as a credible document only if the creditor is a public utility company or provider related to a utility (eg telecommunications operators), a privilege not extended to other entities. Amendments to the act further clarified this provision, eliminating the requirement for both an account and a debt settlement, instead declaring that a statement of accounts was sufficient. In addition, the issue of the orderliness of enforcement proposals, signed by facsimile, has been raised in practice. The answer to this question was provided by case law, with the view that a writ of execution is orderly if it contains a facsimile (of the petitioner or proxy) instead of the petitioner's signature.⁹⁰ Amendments to the act eliminated this ambiguity and specified that a writ of execution to settle claims from utilities was neat and even contained a facsimile instead of the signature of an enforcement creditor or attorney, other than a lawyer. Viewed from a consumer protection perspective, this change, while providing additional procedural relief for the creditor, can at the same time improve the position of the consumer.

⁸⁹ For details, see section IV.4.

⁹⁰ Conclusion of the Civil Section of the Supreme Court of Cassation, adopted at on 27.6.2017.

It contains an implicit prohibition on the enforcement proposal to be provided with a lawyer's facsimile (*argumentum a contrario*), which is one element of a utility practice with characteristics of unfair business practices according to the Consumer Protection Act, by which lawyers draft proposals, the cost of which is credited to the creditor.⁹¹ Proper implementation of this provision could have the effect of eliminating this phenomenon in practice.

Perhaps the greatest challenge in light of amendments to the act to the practice of public enforcement officers, and also to the protection of consumer rights, is the proposed transitional provision, which dictates that all enforcement cases that are not completed in a matter prescribing the exclusive jurisdiction of public enforcement officers be continued before public enforcement officers. These are the so-called "old enforcement cases," which have been awaiting enforcement in court for many years, and most of which contend with utilities and related matters. These cases, according to interviews with enforcement judges, represent a huge load for enforcement work, but also for the courts in general, and have a significant impact on ongoing enforcement cases. The noted transitional provision prescribes the write-off of debt *ex lege*, the suspension of enforcement procedures if enforcement has not commenced by the date of the amendment of the law, as well as in cases in which more than six months have elapsed since the last enforcement action was taken, provided that the principal amount of the claim does not exceed RSD2,000. Such a transitional provision raises a number of issues, from its changes to the application of the statute of limitations, to claims established by a final court decision or decision of another competent authority in these cases, to the issue of the calculation and collection of statutory default interest and determining who bears overall responsibility for the duration of proceedings and the amount of interest as calculated on that basis. Also, it should be noted that the foreclosed write-off for receivables with principals of up to RSD2,000 is of little practical importance since it is an extremely low threshold below which only a single claim is rare. The question also arises as to what procedural moment the public enforcement officer continues in the process and how actions taken earlier in such cases are treated, given the significant observed lapse of time. In any case, while there are undeniable practical reasons for dealing in such a way with the backlog of communal enforcement cases, for the time being the proposed solution seems to raise more questions than it provides answers, as viewed from the perspectives in of the parties involved, specifically the debtor, and that of consumer legal protection. The issue of analyzing this legal solution thereby deserves special attention beyond the scope of this document.

It can be concluded that the amendments to the Law on Enforcement and Security, viewed from the perspective of consumer justice, introduce changes that will improve legal certainty in current cases and at the same time contain solutions to some issues identified in this research, such as certainty submission of letters and notifications to concerned parties via the court bulletin board, increased preciseness of the debtor's personal information, and, in particular, potentially either collecting claims or reviewing the utility creditor's billing details without repression. On the other hand, some identified issues have not been resolved in the proposed legal papers, and proposed solutions for the transfer of old enforcement cases to the jurisdiction of public enforcers may open new issues in practice from the perspective of consumer protection.

⁹¹ For more details, see section IV.6.

VI. Conclusions and recommendations

VI.1. Conclusions:

Based on the research conducted and the findings presented above, the following conclusions can be drawn regarding the current state of consumer protection in the enforcement process and the identification of key problems in the implementation of this policy in practice:

1. Viewed from the consumer perspective, access to justice in enforcement proceedings entails, above all and as a rule, the protection of the debtor's rights in enforcement cases on the basis of a credible document for the collection of claims from utilities and related activities. The statutory procedural rules do not contain any limitations to the protection of the rights of this category of debtors with respect to other enforcement debtors, but they do contain certain procedural benefits for the enforcement creditor, as a rule a public utility company, aimed at increasing the efficiency of the procedure. Bearing in mind the principle of formal legality, a public enforcement officer as a decision-maker in these cases does not have the authority to interfere with the content of, and method of calculating debts used in, claims from credible utility providers. Consumer objections to factual and legal issues in this case, therefore, need to be examined before the commencement of proceedings, or thereafter in litigation, as a rule on the objection of the debtor as referred by the court.
2. In the practice of enforcement in communal cases, the most noteworthy problems, both from the point of view of public enforcement officers and consumers, are related to undertaking certain procedural actions, namely the delivery of decisions and other documents, the identification of the enforcement debtor and the timely notification of important facts for the procedure going forward. Failure to actually receive a decision or delivery notice, even when a formal announcement is made through the notice board, creates an insurmountable obstacle to the protection of consumer rights, depriving it of the essential legal remedy, the objection of the debtor, as well as the ability to settle the monetary claim within eight days after the delivery of the decision. This happens, as a rule, when debtors do not receive necessary information in writing, and the method of delivery and deficiencies associated with accurate information about the debtor create a need for improvement in this regard, making it so that enforcement proceedings are not launched without prior notice opportunity for appropriate remedy. Recently adopted changes to the law provide some improvements in this regard, but there is room for progress at the level of bylaws and practices.
3. A key problem of consumer protection in enforcement proceedings is the limitation that exists in the provision of adequate legal assistance to consumers. The reasons for this are the inability or unwillingness to pay for legal aid in cases of enforcement of claims from utilities and related services through a lawyer, given the relatively high costs of attorney fees compared to the actual amounts concerned in the claim, and the lack of appropriate forms of free legal aid. The only existing form of legal aid

available to debtors in consumer matters is regional consumer advice, where consumer organizations provide legal assistance and advice to consumers, but have to work with very limited material, technical and human resources. The Law on Free Legal Aid allows for consumer organizations to exercise this function in accordance with existing sectoral law, but does not provide credibility for the development of new schemes in other areas.

4. The main causes behind the large number of enforcement cases in utility cases are irregular payment of services and a short expiration date for solutions. The explanation for the problem of consumer protection in enforcement proceedings lies in the manner and conditions of the provision of utilities, given the special rules of consumer protection that designate public utility companies as providers of services of general economic interest, for which enforcement and protection of users' rights is not always adequately ensured in the relationship between providers and service users. Consequently, any complaints made by the consumer regarding terms, quality, and scope of service, price calculations, and the specification of the factors that make up the calculation cannot be subject to examination in enforcement procedures. In this case, the only possibility that remains is for the debtor to rebut the enforcement process, necessitating a lawsuit.
5. The costs of enforcement proceedings are generally relatively high compared to the principal debt in cases of collection of utility claims. This gives the impression that debtors are paying a significantly higher cost than is fair and note the high costs of the public enforcement officer or creditor. The costs involved in enforcement procedures, (including the costs of public enforcement officers and creditors), also have an indirect effect in preventing enforcement proceedings, since the debtor is aware that delay in payment of utility obligations necessarily entails the initiation of expensive enforcement proceedings.
6. The issues that most attract the attention of the general public are those cases related to evictions or collection on real estate. The problem of auctioning real estate sales has been identified, and it is expected that proposed legal changes will significantly reduce potential abuse in this regard. Forced evictions, on the other hand, are primarily a social issue, based on the lack of support mechanisms for persons and families that lose property in this way. Legal aid is not adequate here either, because apart from sporadic attempts to provide aid through citizens' rights organizations and an informal community of citizens, there is no systematic approach to the problem.

VI.2. Recommendations:

The recommendations that can be drawn from these findings and conclusions are as follows:

VI.2.1. Recommendations addressed to the Ministry of Justice regarding the regulation of enforcement and monitoring of the application of the law:

- 1) It is necessary to raise citizens' awareness of their rights and obligations in terms of consumer protection, in communal matters and in enforcement procedures from public utilities.

In the first place, it is necessary to raise the awareness of citizens that avoiding the receipt of documents complicates their position in enforcement procedures, and often makes legal protection impossible. In addition, citizens need to be careful in updating personal user information maintained by utility companies, regularly monitor their utility bills, and file complaints in a timely manner to prevent enforcement actions.

- 2) Consideration should be given to improving the delivery of enforcement decisions and other enforcement documents. Technical options for improving the method of delivery and notification of initiated proceedings may include, but are not limited to:

- a. In view of the forthcoming introduction of the electronic posting board in the courts, it is necessary to provide a technically and organizationally adequate solution, which will be successfully implemented and promoted in order to reach as many interested citizens as possible;
- b. Providing a record of the manner and place of delivery of the letter or leaving a notice of delivery of the letter in the case of physical delivery, in order to eliminate doubts of completion by the enforcement debtor. This is possible by taking a photo of the notice left with relevant location information (geotag).

- 3) Review the individual costs involved in enforcement in utility cases. Proposals to reduce the costs that ultimately burden the debtor are:

- a. Excluding the costs of obtaining data from state bodies and holders of public authorizations (Public Execution Tariff, Tariff No. 2) in cases in which claims are collected from utilities and related services, bearing in mind the new powers of PUCs to directly obtain the debtor personal number (JMBG) and the access of public enforcement officers to the Judicial Information System (at a cost of RSD 1,200) per request), according to the proposed amendments to the law;
- b. Excluding creditor costs for compiling motions for enforcement on the basis of a credible document in communal matters, bearing in mind that these are standardized template-based documents that are produced by the billing department of the creditor in practice, and that there are no real and justified reasons for hiring a lawyer to provide legal assistance for such a process (at a cost of RSD 3,000 or RSD 6,000 per individual motion drafted).

VI.2.2. Recommendations to the Ministry of Trade, Tourism and Telecommunications regarding the implementation of consumer protection rules:

- Citizens should be advised of their option to contact consumer organizations in a timely manner for legal assistance regarding consumer complaints about utilities and related services, as well as after the initiation of enforcement proceedings.
- To supplement the existing Regional Consumer Counseling program with additional activities and resources intended to help solve consumer problems in communal matters, including enforcement in such cases.

VI.2.3. Recommendations addressed to the Public Enforcement Officers' Chamber, with a view to improving the practice of public enforcers in relation to consumers:

- Improving debtor/consumer access to legal assistance in utility cases by providing timely information on consumer organizations capable of assistance, and by exchanging information between public enforcers, consumers, and other organizations to develop a model of ongoing monitoring of, and proposed models for improvements in, consumer issues in this area.
- A more active role for public enforcement officers in the mediation procedure between parties in utility cases, in cooperation with representatives from organizations participating in proceedings as proxies of the debtor/consumer.

VII. Options for defining a model of continuous monitoring of consumer protection in enforcement proceedings

In order to ensure greater transparency in the work of public enforcement officers, to increase their accountability, and to ensure the continuous exchange of enforcement data and greater public understanding of this matter (especially in cases relevant to consumer protection and protection of citizens' rights), it is necessary to examine the feasibility of establishing a permanent structure to monitor consumer protection in enforcement proceedings by civil society organizations. This monitoring mechanism should provide assistance and support to debtors/consumers involved in proceedings, and in relation to the claim arising from the legal relationship to which the consumer protection rules apply. These include enforcement cases from communal matters, as well as related claims (such as concerning telecommunication services), which present a significant share of the total number of enforcement cases under the jurisdiction of public enforcers.

The monitoring mechanism (produced primarily with the input of consumer organizations) should build a relationship of balanced cooperation and monitoring of work of public enforcers, and provide a platform for continual mutual communication. The ultimate purposes of this mechanism should be to prevent violations of the law, that is, more regular acts and actions in the enforcement process, to provide a greater degree of legal certainty and protection for

citizens' rights, to eliminate perceived irregularities in the practice of public enforcers, and consequently to build a better public perception of the enforcement system as a whole.

Based on the findings of the research conducted and the conclusions reached, the following two models of monitoring the protection of consumer rights in the enforcement procedure are provided:

Option 1 – *Consumer organizations network*

Option 2 – *Local monitoring mechanism*

It is also necessary to examine the possibilities that exist for improvements in procedures within the existing structure of power and relations of the main actors, not necessarily implying the construction of a new structure. These questions are discussed below in the “Zero Option” section.

VII.1. Option 1 - Consumer organizations network

VII.1.1. Description of the model

This model establishes coordinated cooperation between the network of consumer organizations and citizens' rights organizations to conduct independent, external monitoring of consumer protection in enforcement proceedings. This is done with the continuous and systematic monitoring of the practice of public enforcement officers, on the basis of information obtained in the process of providing legal assistance to consumers in communal matters.

The purpose of this mechanism is to provide continuous objective monitoring of the situation in this area, to identify problems in enforcement procedures, to make possible proposals for measures for improvement, and to create a platform for communication and cooperation between consumer organizations and public enforcers.

The mechanism gathers consumer organizations with a focus is on enforceable matters in which the debtor is a natural person/consumer and the creditor is a merchant (as a rule, a legal entity that provides commercial services, utility and related). The mechanism may also include input from individual citizens' rights organizations, such as existing initiatives aimed at protecting the right to housing and problems related to the protection of that right in the enforcement process. Concepts, therefore, related to consumer organizations accordingly apply to organizations for the protection of citizens' rights.

VII.1.2. Model structure

The proposed model involves building links between several consumer and citizen rights organizations from Serbia's major cities with sufficient experience, acquired knowledge, and analytical capacities, and that are interested in participating in the mechanism. The mechanism provides for the collection of data from the work of public enforcement officers, consumers cooperating with certain consumer organizations, monitoring the work of utility companies (in terms of modes and conditions of provision, calculation and payment of utilities), through collecting available information, reports and other information on the work of public

enforcement officers and on enforcement procedures in utilities and cases of interest for the protection of citizens' rights, as well as from other sources.

It is necessary to ensure the cooperation of these consumer organizations through a uniform and harmonized methodology for monitoring of the work of public enforcers, coordinating these activities, as well as consolidating findings and producing proposals for measures going forward.

In order to establish the structure of this mechanism, it is necessary to establish a network of consumer organizations to monitor the work of public enforcement officers, to be done as follows:

1. Formulating an initiative to establish a common mechanism for monitoring consumer protection in enforcement proceedings;
2. Notifying all registered consumer organizations of the initiative;
3. Establishing a network of interested organizations and designating an organization to coordinate the network;
4. Reviewing the proposal and establishing a common methodology for the mechanism.

VII.1.2.1. Coordination and organization of work

The structure of the mechanism provides for periodic consultations between network members, data sharing and methodological adjustments in the preparation of report documents.

Each member organization designates one representative from within its ranks as a principal investigator, contributing to the management of the activities of the mechanism within that organization and participating in the coordination of the wider network. A detailed work plan is established for the purposes of successful coordination.

The organization that coordinates the network also appoints a representative in this role, who also functions as principal investigator, responsible for coordinating the mechanism, sharing information, and increasing methodological alignment. Coordination, the responsibility of the network coordinator, is managed through a process of continuous cooperation and communication between the coordinator and the representatives chosen by the other organizations that make up the network. Network coordination can be rotated on the lines of the monitoring cycle.

From an organizational point of view, synergy between this network and the working group of the EU National Convention on chapter 28 of the *acquis* (concerned with consumer protection and health protection), coordinated by the Center for European Policies, and of which most members are representatives of consumer organizations, should be a priority. Cooperation is ensured as most consumer organizations are already represented in the chapter 28 working group, their common platform in monitoring the EU accession process, with extant mechanisms in place to exchange data, and documents, and representing a permanent forum for dialogue between members and relevant government bodies and other stakeholders in the process.

VII.1.3. Activities

The enforcement mechanism for monitoring consumer protection in enforcement proceedings envisages the following activities:

- The collection of relevant data
- Support for citizens/consumers in individual situations
- Ongoing dialogue with relevant actors
- Analytical processing
- The periodic production of situation reports concerning the area under review
- Establishment of proposed measures for improving the situation
- Publicity

The activities of the mechanism should be carried out in accordance with a unique methodology to be defined at the beginning of the establishment of the network. Each organization is responsible for data collection, analysis, and the production of relevant reports.

The network coordinating organization is responsible for methodologically harmonizing procedures, providing guidance and assistance to other organizations throughout the monitoring cycle, and drafting an annual report based on individual contributions. Coordination takes place through representatives of the networking organizations, who are specifically designated lead researchers for the implementation of the mechanism.

Time cycle: a one-year period for preparing and producing reports. A detailed plan of activities is established for the coordination of organizations within the network.

VII.1.3.1. Collection of relevant data

The collection of relevant data is carried out in the framework of a unique mechanism methodology. Data is gathered:

- When providing assistance and advice to consumers in individual enforcement cases;
- By receiving information provided by consumers and office research (including interviews with consumers);
- By documentary research;
- By field research (including interviews with public enforcement officers, representatives of creditors/utility companies, and focus groups, among others).

Data collection takes place as part of the regular activity of consumer counseling centers, and as part of specific activities in the framework of the mechanism tied to thematic research.

Work coordination is achieved through network coordination.

The following data sources are used to conduct monitoring activities:

- I. The analysis of documents, data and official websites related to:
 - legislation (laws and regulations);
 - policy documents (strategies, programs, plans, action plans, and others);
 - official reports (implementation reports, public consultation reports, and others);

- official records (National Register of Consumer Complaints, Ministry of Justice data, case law, reports of the JI Chamber, and others)
- analytical documents (analysis of the effects of regulations, explanations of laws, policy evaluations, and others);
- individual legal acts (decisions, conclusions, and others);
- other documents (agendas, meeting minutes and reports, announcements, guidelines, instructions, memoranda, and others);
- 2. Requests for free access to information
- 3. Focus groups
- 4. Interviews with consumers and other participants in the proceedings as well as with creditors (utility companies, telecommunications operators)
- 5. Surveys

VII.1.3.2. Supporting and advising citizens/consumers:

Some activities carried out by consumer organizations in accordance with the Consumer Protection Law⁹² include:

- Providing legal assistance to, informing, educating, and advising consumers in exercising consumer rights;
- Receiving, recording and acting on consumer complaints;
- Conducting independent tests and comparative analyses of the quality of goods and services provided, and publicizing the results obtained;
- Conducting research in the field of consumer protection and publicizing the results obtained.

In addition, consumer organizations registered in the records of the competent ministry in accordance with the law have the following rights⁹³:

- To compete with the program of public interest for the ministry's incentive funds;
- To initiate proceedings to protect the collective interest of consumers in accordance with the law;
- To represent consumer interests in court and extrajudicial proceedings;
- To represent consumer interests in consultative bodies in consumer protection at the national, regional and local levels;
- To participate in the activities of working groups, such as in the preparation of regulations and strategic documents governing consumer rights;
- Access to the National Consumer Complaint Register in order to receive, record and act on consumer complaints;
- To participate in the work of the Consumer Council

Counseling consumers in individual situations and receiving consumer complaints (which can constitute any form of complaint regarding a violation of consumer rights under the Consumer Law or other related law), are characteristic activities of consumer organizations. Depending on the professional and organizational capacities of individual organizations, as well as the resources available to finance their activities, they provide direct support to consumers who approach

⁹² Consumer Protection Law, Art. 131

⁹³ Consumer Protection Law, Art. 135

them. In practice, this situation primarily implies one in which a trader ignores a complaint or in connection with a violation of the rights and protection of interests encompassed in service contracts.

Assistance from consumer organizations consists primarily of providing information on relevant legal rights and obligations, assessing the justification of the specific consumer complaint, directing the consumer in how to pursue the request, and in presenting options for the protection of their rights and interests. In addition, when possible, the consumer organization directly addresses the trader regarding the identified violation, suggesting possible steps to be taken to remedy the injury.

Currently, eight organizations are participating in the Ministry of Trade, Tourism and Telecommunications' Regional Consumer Counseling Program, which provides funding for consumer organizations in four regional areas to assist consumers in exercising their rights.⁹⁴

The counseling activities provided for by the program include:

- Informing and educating consumers about their rights;
- Advising consumers (giving legal advice on consumer rights in specific cases and method of exercise);
- Providing assistance to the consumer in the resolution of specific problems (contacting the trader, by telephone, written complaint indicating the legal basis of consumer rights, and other means);
- Representing consumers in court and out-of-court proceedings (drafting a reprimand and other filing, as well as taking necessary actions required by law);
- Retaining an electronic consumer complaint database including the use of the National Consumer Complaint Register

Within the scope of these counseling activities, or in cases of support by organizations not currently within the scope of this program, when citizens/consumers approach these organizations in the context of specific enforcement cases based on utility companies' claims backed by credible documents, there are three areas in which a consumer organization can provide assistance in an individual case, including:

- Regarding the filing of an objection by the debtor in an enforcement proceeding or other such process, by providing advice as to the manner and possibilities of filing an objection, a request for fixing an irregularity, or another such demand;
- Regarding the potential for cooperating with the public enforcer to mediate with the creditor and amicably settle claims;
- Concerning specific objections to the actions of individual public enforcement officers, which may be based upon elements of disciplinary violation.

⁹⁴ The 2018 program is implemented by the National Consumers Organization of Serbia (NOPS), the Consumer Center of Serbia (CEPS) and the Consumer Protection Association, Belgrade, the Vojvodina Consumer Protection Association and the Prosperity Consumer Protection Association for Vojvodina, the Kragujevac Consumer Organization for the region Sumadija and Western Serbia, and the Center for Consumer Protection and Improvement of the Quality of Life of Citizens FORUM and the Association "People's Parliament" for the region of South and East Serbia

Assistance in the preparation and referral of a complaint or other legal solution (counseling in a specific case that simultaneously has the characteristics of a consumer substance and an enforcement object), is exercised with the aid of the aforementioned legal powers of registered consumer organizations, through competent persons, and represents a form of free legal aid that can be exercised by citizens under the Consumer Protection Law. In this sense, such activities of consumer organizations are exempted from the implementation of the new Law on Free Legal Aid.⁹⁵ Similarly, the initiation of a mediation procedure between a consumer organization and a public enforcement officer also involves elements of legal assistance as well as the general legal authority to represent consumers in judicial and extrajudicial proceedings.⁹⁶ In some cases this type of assistance could work towards a solution by mutual agreement on the utility provider's claims (assessed by the consumer organization as being established and not obsolete), as part of the official and procedural mediation action by the public enforcement officer.

When assisting consumers in the event of a suspected disciplinary violation by a public enforcement officer, there is the possibility of filing a complaint with the disciplinary prosecutor of the Public Enforcement Officers' Chamber. In this case, the complaint may be filed through a consumer organization as a proxy for the debtor and in accordance with the requirements provided in extant regulations.⁹⁷

Data on consumer advisory in specific cases are separately recorded within the framework of the mechanism for monitoring consumer protection in enforcement proceedings, including:

- Case numbers;
- Acting public enforcement officers;
- Appropriate court;
- Creditors;
- Debtors;
- Legal bases of claims;
- Principal amounts;
- Amounts of interest accrued;
- Calculated costs of procedures;
- Contents of consumer complaints (alleging the infringement of rights or interests);
- Proposals for action (complaints in enforcement proceedings, requests for the elimination of irregularities, complaints, mediations, payments of debts).

In order to provide support to consumers and enhance the visibility of this form of support to the public, it is necessary that public enforcement officers and the Public Enforcement Officers' Chamber provide an appropriate method of informing debtors that they can contact consumer organizations, providing their contact information.

⁹⁵ Law on Free Legal Aid ("Official Gazette of RS", No. 87/2018), in Art. 1 st 2. provides that the law applies to beneficiaries of legal aid who have not exercised their right to legal aid under other laws.

⁹⁶ Consumer Protection Law, Art. 135, para. Point 1.3) regarding the Law on Enforcement and Security, Art. 137.

⁹⁷ Rulebook on Supervision of the Work of Public Enforcement Officers and Public Enforcement Officers' Deputies ("Official Gazette of the RS", No. 63/2018), Art. 11. Point 4.

VII.1.3.3. Ongoing dialogue with relevant actors

As part of the mechanism of monitoring the protection of consumer rights in the enforcement process, it is necessary to ensure a constant exchange of data and communication with key players, namely:

VII.1.3.3.1. Cooperation with the Public Enforcement Officers' Chamber - a special working body

As part of the mechanism, the Public Enforcement Officers' Chamber would establish a special working body for cooperation with consumer organizations. The main purpose of this body lies in providing reliable and continuous communication between consumer organizations and the Public Enforcement Officers' Chamber, a joint forum to discuss irregularities identified in the practice of public enforcers, as well as problems faced by consumers in the enforcement process as a result of insufficient information or lack of adequate legal assistance.

This special working body would provide:

- The exchange of information, and the consideration of problems identified in, the work of public enforcers;
- The presentation of produced monitoring reports and the proposal of measures for improvement;
- The consideration of outstanding legal issues;
- The determination of a model for consumer organization participation in enforcement cases;
- The potential for improving the existing situation by better informing the public.

This working body would include representatives of *all consumer organizations and other citizens' rights organizations included in the network*. In this way, inclusion and work within the network would be stimulated, ensuring the relevance of the findings and pushing a direct impact on public enforcement officers through an official structure within their professional association.

The Enforcement Board of the Public Enforcement Officers' Chamber decides by its own decision on the establishment and scope of work of a special working body for cooperation with consumer organizations.⁹⁸

Based on the findings of produced monitoring reports and the measures proposed by the special working body, concrete proposals could be identified and addressed to the Chamber's Unification Practice Council, with a view towards providing recommendations, guidelines, models, and expert input for the work of public enforcement officers.⁹⁹ In this respect it is particularly important to determine a model for providing information to consumers (who appear as debtors in utility enforcement cases), through a special working body and the subsequent guidance or recommendations of the council. These guidelines would indicate the necessity of instructing enforcement debtors to contact regional consumer advisors or other organizations within the network to provide assistance and advice in such cases, either at the moment of delivery of enforcement decisions, or on a continuous basis, through information

⁹⁸ Statute of the Chamber of Public Enforcement officers, Art. 50th c. I

⁹⁹ Rules of Procedure of the Council for the Unification of Practices in Enforcement and Security Procedures ("Official Gazette of the RS", No. 19/2018), Art. 4.

given to debtors who contact their offices. Also, a specific model of information could be created within this structure of cooperation.

Initiatives regarding proposals for regulatory changes would be referred to the competent authority (such as the Ministry of Justice, the Ministry of Trade, Tourism and Telecommunications, or the Ministry of Construction, Infrastructure and Transport, if the issue is in the area of public utility services).

VII.1.3.3.2. Collaboration with the Ministry of Justice and the Ministry of Trade, Tourism and Telecommunications:

Organizations in the network would have regular communication with the Ministry of Justice, which oversees the work of public enforcement officers, as well as with the Ministry of Trade, Tourism and Telecommunications, responsible for consumer protection. The purpose of this communication is the mutual exchange of information, in order to:

- Collect official data from ministries on the work of public enforcement officers, relevant case law, data from the National Consumer Complaints Register, and other information relevant for monitoring consumer protection in enforcement proceedings;
- Provide ministries with periodic information and findings from monitoring;
- Submit relevant data to the ministries with jurisdiction over particular sectors, with the Ministry of Justice with supervision over the work of public enforcers, and the Ministry of Commerce with supervision over the application of the Consumer Protection Law in the practice of providers of general economic interest;
- Consider findings from monitoring reports and the participation of organizations that make up the public policy management network in accordance with relevant regulations on the work of state bodies.¹⁰⁰

VII.1.3.4. Analytical processing

The data collected during monitoring process, both in cases of assistance to individual citizens/consumers, and especially in the framework of the systematic and planned collection of data from sources included in the methodology, should be subject to analytical processing. The basic methodological approach is qualitative, to create a comprehensive picture of the wider situation and to provide findings that are applicable to case categories and typical problems encountered in the practice of public enforcers. As a supplementary method, quantitative analysis of the available data should also be used. During the data collection process, basic qualitative data processing should be performed, classified according to defined issues and/or the categorization of particular thematic issues (open questions/problems in the practice of public enforcement officers), in order to be suitable for examination and analysis.

Data analysis should focus on key issues in the interest of protecting consumer rights in enforcement cases, especially in utility cases. In this respect, the thematic framework of the mechanism should be consistent, not to include issues unessential to its purpose, such as general

¹⁰⁰ Regulation on the methodology of public policy management, analysis of the effects of public policies and regulations and the content of individual public policy documents ("Official Gazette of the RS", No. 8/2019)

consumer policy and protection, enforcement issues not relevant to this matter, a general view of the practices of public enforcers, to name a few. At the level of thematic units, common characteristics and differences can then be used for comparisons, primarily through cross-analysis.

VII.1.3.5. Periodic reporting on the situation in the area being monitored

The preparation of periodic reports, according to the established monitoring cycle, is one basic product of the mechanism. The monitoring cycle would extend for one year, and, upon its completion, a report would be produced and presented. The report should integrate the findings and contributions of the individual organizations that make up the network, and should be compiled by an organization that acts as the network coordinator in a given cycle.

The annual report would contain two main sections:

- A descriptive comprehensive report on the findings and key issues identified in the monitoring process;
- Conclusions and proposals for measures to improve the situation in specified areas.

VII.1.3.6. Establishment of proposed measures for improving conditions

Initiatives to amend laws, regulations or acts, proposals for defining specific models of acts of public enforcement officers, specific measures regarding the practice of public enforcement officers to remedy irregularities, and to facilitate the protection of the interests of debtors of consumer character are some of the possible measures that may result from planned mechanisms, to be established in the annual report.

VII.1.3.7. Publicity

This activity involves providing factually accurate and legally justified information to the public about the rights and obligations of consumers or other citizens in the enforcement process, and their possibilities of receiving legal assistance from consumer organizations.

An essential part of this component lies in the publication of an annual report.

Other potential forms of producing publicity include:

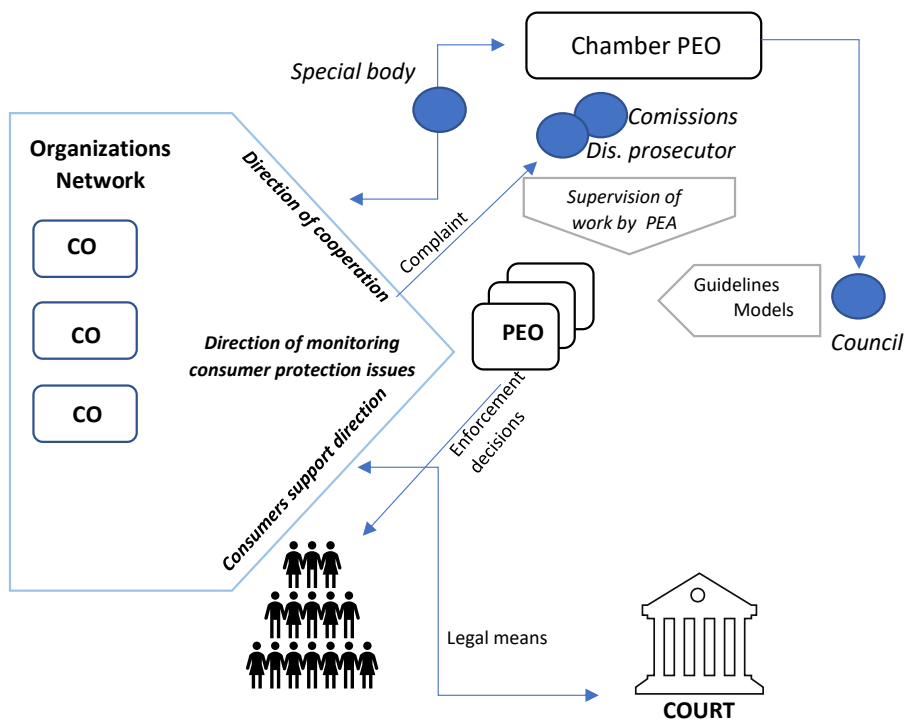
- Periodic announcements made by consumer organizations or joint public communications through the Chamber's special working body;
- Information provided on the internet, over the telephone, and directly to consumers and parties to the proceeding both by consumer organizations and public enforcement officers;
- Brochures, handbooks, or other methods of raising the level of information citizens receive about matters of execution in the communal sphere.

VII.1.4. Results of the mechanism

Based on the previously mentioned activities to be included in the Consumer Protection Mechanism in enforcement proceedings, expected results include:

- The provision of assistance/advice to consumers in individual cases;
- The production of an annual report;
- Suggestions for further action;
- The production of public announcements and other publications.

VII.1.5. Outline of the monitoring mechanism schema - Consumer Organizations Network



- CO - Consumer organization
- PEO - Public enforcement officers
- PEO Chamber - Public Enforcement Officers' Chamber
- Advice - Advice on harmonizing practice
- Special body - A special working body for cooperation with consumer organizations
- Disciplinary Prosecutor – The Disciplinary Prosecutor of the Public Enforcement Officers' Chamber
- Commissions - Commissions for extraordinary control of the Public Enforcement Officers' Chamber

VII.2. Option 2 - Local monitoring mechanism

VII.2.1. Model description

The model envisages that one or more consumer organizations within the territory of a unit of local self-government shall implement a mechanism for monitoring consumer protection in enforcement proceedings in that area. The basic features of the mechanism include independent, external monitoring of consumer protection in enforcement proceedings through the continuous and systematic monitoring of cases based on a predefined methodology, primarily in matters of enforced collection of claims from utilities and related services.

Purpose and methodology of Option I - Consumer organization networks are included in the local mechanism model proposed here, with appropriate changes.

The local mechanism targets the limited resources of consumer organizations on monitoring the work of public enforcement officers, with jurisdiction over utility billing cases in a city or municipality. In this way, a closer link is established between findings and proposed measures, based on the practices of the utility companies in the area, and the local self-government unit, their founder also responsible for regulating the provision of utility services in a given area. The consumer organization (or local network of organizations) can thus have greater influence on local policy in communal matter, as well as on the practice of utility companies, the backdrop for the majority of problems in communal matters.

As in Option I, solutions for involving citizens' rights organizations are applied accordingly, while local consumer organizations maintain their central position in the mechanism.

VII.2.2. Model structure

This model enables consumer organization to implement a mechanism for monitoring consumer protection in enforcement proceedings, independently or in cooperation with other local organizations, in the area in which it operates.

If two or more organizations come together to implement the given mechanism, elements of the structure, method of organization, and coordination of Option I shall apply accordingly.

VII.2.3. Activities

This mechanism envisages basically the same group of activities as in Option I, with the inclusion of specific parameters regarding the scope of data, and subjects and areas monitored.

The activities of the mechanism should be carried out in accordance with the methodology, prepared in advance in accordance with the principles of this model.

VII.2.3.1. Inclusion in the Regional Counseling Program

The proposed model of this mechanism could also constitute a segment of the activities undertaken within the Consumer Counseling Programs, and in that sense, the organizations responsible for the activities would be the consumer organizations involved in the program.¹⁰¹

VII.2.3.2. Special support program for the local mechanism

Local self-government units have an interest in establishing a thematically-oriented, independent, and objective mechanism for monitoring consumer protection. In enforcement proceedings carried out on the orders of utility companies within their jurisdiction, it is important to identify possible irregularities primarily in content and manner of the calculation of services.

With this in mind, it is necessary to push for the development of programs prepared by individual local governments in order to support local consumer organizations, first of all in big cities, modeled on the program of regional advisory services of the Ministry of Trade, Tourism and Telecommunications. Such an effort would provide the necessary resources for a local monitoring mechanism. In addition, aid to measures providing support and advice to citizens/consumers in matters of utility billing would be of particular importance.

VII.2.3.3. Continued dialogue with relevant actors

In the context of a local mechanism for monitoring consumer protection in enforcement proceedings, cooperation with relevant actors also encompasses the inclusion of the Public Enforcement Officers' Chamber, local self-government units and area utility companies.

VII.2.3.3.1. Cooperation with the Public Enforcement Officers' Chamber - Commissioners for Cooperation

A permanent channel for communication needs to be established between the Public Enforcement Officers' Chamber and consumer organizations implementing the local mechanism. This communication could be arranged through responsible representatives from the Chamber in individual areas - *the Commissioner for Cooperation with the Local Mechanism*.

Chosen commissioners would provide relevant information to monitoring organizations in the area, or transmit reports, findings and proposals for measures to competent bodies of the Chamber.¹⁰² In addition, commissioners could also ensure cooperation with public enforcement officers in the areas covered by the mechanism.

VII.2.3.3.2. Collaboration with local government units and utility operators

Considering that the Consumer Protection Law already contains an obligation for providers of services of general economic interest to set up advisory bodies including representatives from

¹⁰¹ For details, go to Option I.

¹⁰² The Commissioners would be appointed by the Chamber's Enforcement Board, in accordance with its authority to decide on matters of interest to the Chamber and to public enforcement officers, which are not within the competence of other bodies of the Chamber (Article 36, Paragraph 1, Item 24 of the Statute)

registered consumer organizations,¹⁰³ the local mechanism also plans for cooperation with these bodies. As utilities are classified as service providers of general economic interest, this obligation also applies to them, and in most cities, these bodies are already established and functioning.

Advisory bodies have an important role to play in considering decisions made by the local government unit regarding the conditions and methods of the provision of services of general economic interest, largely encompassing utilities. They may also provide a forum in which service providers can receive directives based on the experience and knowledge that consumer organizations gain in conducting consumer assistance activities, on the improvement of procedures for enforcement proposals based on credible utility documents. Of particular importance is building links between the monitoring of findings with the practices of utility operators, in order to eliminate perceived problems or violations of consumer rights.

In addition, it would be a positive step for local government units to build a durable form of cooperation and communication with the local monitoring mechanism through its utility services.

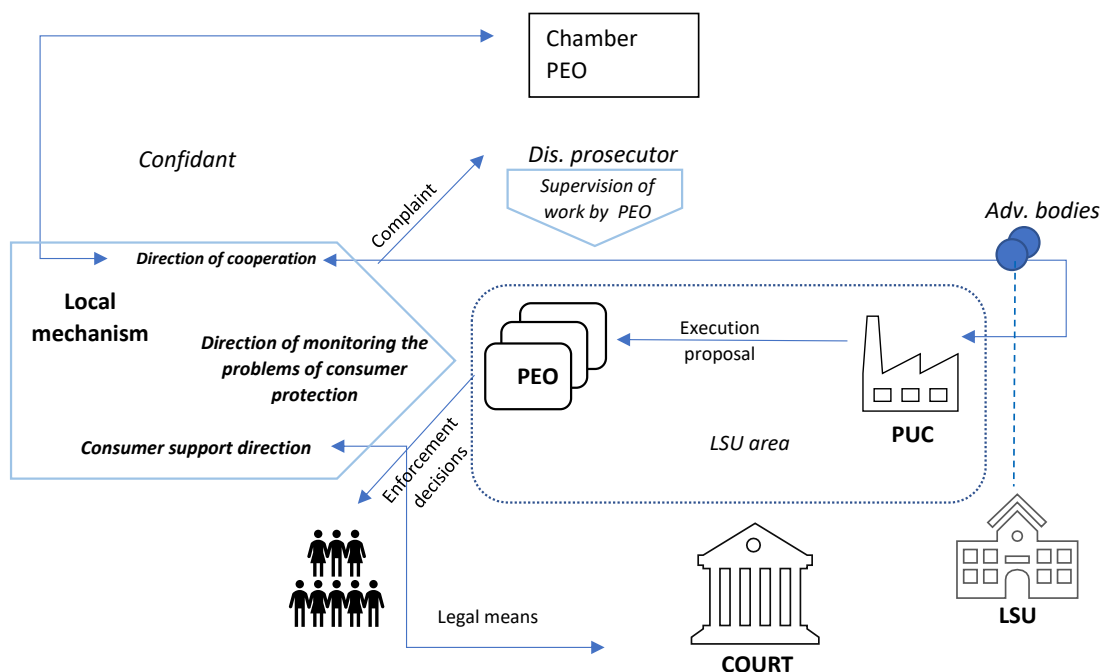
VII.2.4. Results of the mechanism

Based on the previously mentioned activities of the Consumer Protection Mechanism in enforcement proceedings, expected results include:

- The provision of assistance and advice to consumers in individual cases in the area of the local government unit;
- The production of annual reports on the work of public enforcers in the area of the local government unit;
- Suggestions for action going forward;
- The production of public announcements and other publications.

¹⁰³ Consumer Protection Law, Art. 83 4.

VII.2.5. Outline of local monitoring mechanism schema



- CO - Consumer organization
- PEO - Public enforcement officers
- Chamber PEO - Public Enforcement Officers' Chamber
- Advice - Advice on harmonizing practices
- Commissioner - Commissioner for cooperation with the mechanism
- Disciplinary Prosecutor - Disciplinary prosecutor
- Commissions - Commissions for extraordinary control of the Chamber
- PUC - Utilities
- Advisory bodies - Advisory bodies
- LSU - Local self-government unit



USAID
FROM THE AMERICAN PEOPLE



This publication was made possible with the support of the American people through the United States Agency for International Development (USAID), through the project Access to Justice in Enforcement Proceedings - Building a Model Through a Consumer Perspective" implemented by the European Policy Centre in Belgrade and supported USAID Rule of Law Project. The content of the publication is the sole responsibility of the author, European Policy Centre from Belgrade and do not necessarily represent the views of USAID or the US Government.