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LEILA – towards a muLtilingual European platform for judlciaL Auctions

Mapping stakeholders

Data collection on the legal, organizational, and technological setting of judicial auctions at the national level for defining needs-based functional and technical requirements

Deliverable D2.1

The contents of this deliverable are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Commission.





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List of Abbreviations

| Acronym | Explanation |
|---------|--|
| LEILA | 'LEILA - towards a multilingual European platform for judicial Auctions' Project, Grant Agreement No 101007385 |
| e-CODEX | e-Justice Communication via Online Data Exchange |
| EU | European Union |
| EC | European Commission |
| DG JUST | Directorate-General 'Justice and Consumers' to the European Commission |
| MS | Member States (EU) |
| WP | Work Package (LEILA Project) |
| ISs | Information Systems |
| IT | Italy |
| LV | Latvia |
| HR | Croatia |
| PT | Portugal |
| FR | France |
| LT | Lithuania |
| CZ | Czech Republic |
| BL | Bulgaria |
| AT | Austria |



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Executive Summary

The present report is the first deliverable to be provided within the framework of the Working Package 2 of the LEILA Project ‘Defining Functional and Technical Requirements’, which has the main objective “of **mapping stakeholders** (most relevant target groups, including end-users) and their engagement in project activities **in order to ensure project outcome alignment with stakeholders’ needs**; data gathering related to stakeholders’ requirements and best practices and assessment of project developments through multiple methods (online questionnaires, participative workshops, public meetings, semi-structured interviews, and workshops involving stakeholders) to gather feedback, impressions and suggestions.”

In order to identify the previously mentioned items, **survey-based research** has been conducted from March 10 to April 27, 2021 (action requested by task T2.1 of the LEILA Project) sending a questionnaire to all MS partners (IT, LV, HR, PT, FR, LT, CZ, AT, BL) with a broader scope and aimed to capture information for the identification and engagement of a stakeholders’ community (mapping stakeholders) and the data collection of their needs starting from the recognition of their reference framework (legal, organizational and technological) at the national level, in particular:

- a) the legal framework relative to online judicial auctions;
- b) e-auctions steps in practice;
- c) the characteristics of existing electronic (and paper-based, if not available) auctions related registers of assets;
- d) the characteristics of online national judicial e-auction systems (if available);
- e) an assessment of the information available on the e-Justice Portal about judicial auctions;
- f) an opinion on existing barriers and opportunities related to developing an EU online search engine from the national perspective.

Based on the questionnaire’s replies, in the nine Member States analysed under this project, judicial auctions are governed mainly by **legal framework** provided for by the Civil Procedure Code (BL, CZ, IT, LV, LT) and enforcement law (AT, HR, LV, LT) together with some other complementing legal tool regulating the professions of bailiffs and judicial officers and the technical specifications to comply with when performing judicial sales online through dedicated websites (CZ, FR, IT, LV, PT).

In light of the findings gathered, in all the Member States surveyed judicial auctions can be conducted to perform the sale of movable and immovable properties.



The basic steps marking the procedure to have these items auctioned are similar, but significant differences have been detected as to the criteria based on which these properties are sold, and the methods adopted to implement the above steps. For example, in some countries, different procedural rules apply depending on the type of asset involved.

Overall, e-auctions can be legally carried out in all the Member States under examination. In only one of the surveyed countries, e-auctions are not used yet in practice because the Information Technology infrastructure to support their deployment is still under development (BL). More specifically, in some States, the current legislation only provides for telematics sales to be performed (CZ); while in others, both traditional and online auctions can be used (AT, HR, FR, IT), depending on the type of item to be auctioned. Some States, for example, only allow the online sale of movable goods (AT, FR). In FR, where this mixed regime is into force, judicial e-auctions are partially computerised; these can only be conducted in “live mode”, meaning that the sale takes place at a given physical location, while it is broadcasted live on the website of the professional/body performing the sale, or on one of the websites available to professional auctioneers.

In each of the countries investigated, the main steps marking the **e-auction process** are pretty similar to those characterising the traditional system adopted at a national level.

By and large, the procedure is triggered by the creditor or his/her legal representative, who submits a request to have a judicial decision executed. The debtor’s properties that are deemed suitable to cover the debt are then seized and evaluated. Bailiffs and other appointed professionals are usually entrusted with evaluation tasks, but the technical supports of authorised experts or licensed appraisers can be required, especially with respect to real estate or properties of higher value (for details see Table 1). After such an assessment has been conducted, the basic price of the item can be set by the bailiff or by court decision.

Notice of the auction must be available in advance of the auction starting date for a period that varies from State to State and can be given in different formats. Online advertising is generally required in all the countries investigated. This is usually made available on the auction site and on official registers/journals accessible to the public in electronic form. In some states, the notice has to be also given in the paper form in specific physical locations, e.g. the municipality, the competent court, or the judicial officer’s office in charge (BL, FR).

Advertisement generally includes the description of the item to be auctioned and the details about the conduct of the sale. In the case of higher value items (e.g. real estate), in all the Member States surveyed the description provided is more detailed. Sometimes, a technical report is also attached (IT). Where pre-emptive rights can be used by individuals entitled to exercise them, this information must be made public in advance (CZ; PT).



In this respect, it is worth noting that most MSs provide special electronic registers containing information about all the seized properties, which are available free of charge to the public. However, they are usually maintained by different types of entities/authorities, are not interoperable with auction websites and do not provide structured data for publication. Moreover, in some cases, their use is not mandatory and therefore, they do not contain complete information on available auctions.

Based on the information gathered, the range of **possible stakeholders** is broad and diverse. Together with creditors and debtors, who have an interest in ensuring that the auctioned property is advertised to the widest possible audience and that the pending debt is rapidly repaid, many other actors come into play in the perspective of developing an EU online search engine.

For example, policymakers have a duty to regulate judicial e-auctions and promote their use by facilitating and putting measures for enhancing the cross-border exchange of auctions' information and sales. Along with them, judges (or their delegates) are in charge of selling seized assets at judicial auctions, experts who estimate the value of seized assets and individuals or companies or competent authorities in charge of the sales operation. Also, legal practitioners handling cross-border e-delivery and exchange of documents and evidence can have an interest in the developments that this project will achieve, and so do research and academia representatives work on the field of e-procurement, e-auctions, e-justice, and their related aspects.

Specifically, the survey has allowed identifying several stakeholders' clusters, as presented in Table 1 and analysed in paragraph 5.1.

Based on the national experts' opinions, one of the **main existing barriers** related to the development of an EU online search engine — from the national perspective — is information-related.

First of all, the national rules governing this matter vary widely from country to country, and for the individual living in a foreign MS, access to this type of information is extremely complicated. The Justice Portal could fill this information gap, but at the moment the data entered by MSs is not even. As far as the countries surveyed are concerned, only a few MSs have provided full (FR, HR) or partial (IT, CZ) data about their national auction systems. Information regarding PT, LT, LV, BL and AT are still lacking.

In addition to this, acquiring the necessary information is generally not easy for both domestic and foreign audiences. As mentioned above, most of the States surveyed provide special electronic registers containing relevant information about the properties to be auctioned, but



they hardly provide structured and complete data for publication. Moreover, in some cases, their use is not mandatory.

Along with this, the language in which the information is made available is also an obstacle in most cases. Dedicated auction websites are often only available in the national language, making it harder for potential foreign bidders to participate in the auction process.

Issues were also raised regarding the registration of participants on the auctions' websites and the methods/procedures potential bidders have to comply with to prove their own identity. To participate in e-sales, interested persons need to register as users and prove their identity and legal status. This can imply providing a personal, national identity number issued in accordance with the procedure established by national law, indicating a national bank account code or domestic tax code. In some cases, electronic identification (e.g. electronic signature) issued according to national rules and procedures is required (IT).

Finally, in some cases, the terms of payment of the deposit are considered as a barrier to participation in the sale by individuals living abroad, where such an amount is required to be paid in person.



1. Introduction

Judicial auctions are procedures by which judges or their appointed representatives (independent professionals or companies authorised to perform this task) realise the debtor's assets intending to collect an amount of money necessary to meet a creditor's claim. Usually, judicial auctions are preceded by the seizure of the debtor's possessions. This step aims to allow the creditor to identify those assets, which s/he deems suitable to satisfy her/his claim. Both movable and immovable properties can be seized, as well as any debt the debtor may have against third parties. In the latter case, however, the enforcement procedure does not result in a sale but in transferring the debtor's debt to his creditor.

Across the EU, there are different types of judicial auctions; however, for the purpose of this report, judicial auctions are referred to as a method that creditors use to enforce a judgment issued by a civil court and force the sale of the defendant's properties, in the case this latter fails to pay what is owed on the basis of that judgment.

As regards the judicial auctions falling into the category described above, the general picture is very diverse across Europe and this impacts competition negatively as well as the sale value and the time needed to conclude a sale. On the one hand, the national legal framework governing this matter differs from State to State and even at domestic level it sometimes appears very fragmented and difficult to discern. Along with this, the goods to be sold are not always advertised online. Only in 11 Member States they are published on a government-run website. Moreover, in most cases, information is only available in the local language. National portals are indexed by web search engines with limited success, while private third-party portals (which might show outdated, incorrect and unverified information) are better advertised. Information is therefore not easily available, especially for a foreign audience.

LEILA project aims to overcome these shortcomings by providing individuals and companies more accessible access to information on goods to be sold in judicial auctions taking place in the 1+Member States, without intermediaries. It aims at developing a "one-stop-shop" EU marketplace with a simple and intuitive user interface, extending national boundaries and enabling users to compare search results in different languages.

LEILA will thus increase the competitiveness and effectiveness of judicial auctions, widen users' base and the number of potential participants, achieve faster conclusion of the sale process and reduce the non-performing loans ratio.

The judicial auction multilingual platform is meant to facilitate, consolidate and support the data exchange over e-CODEX (the e-delivery infrastructure supporting EU e-Justice



cross-border services) to reduce time and costs for development and integration with national information systems (ISs).

To that purpose, LEILA will integrate the platform with six existing and one to-be MS providers' ISs (IT, LV, HR, PT, FR, LT, CZ) to retrieve the judicial auctions' data in an automated way while providing for manual upload and update of information where such ISs do not exist.

In order to achieve this goal, LEILA will:

- a) map stakeholders & define needs-based functional and technical requirements;
- b) develop and deploy the multilingual platform, ready to be integrated with the EU e-Justice Portal;
- c) provide for an EU-wide adoption strategy and a sustainability road map.

The present report is one of the deliverables to be provided within the framework of the Working Package 2 of the LEILA Project, which has two main objectives:

- Mapping project stakeholders (most relevant target groups, including end-users) and their engagement in project activities in order to ensure project outcome alignment with stakeholders' needs; data gathering related to stakeholders' requirements and best practices and assessment of project developments through multiple methods (online questionnaires, participative workshops, public meetings, semi-structured interviews, and workshops involving stakeholders) in order to gather feedback, impressions and suggestions;
- Identifying, analysing, and defining functional, technical and security requirements and detailed technical specifications for the development of the software and the interoperability between the LEILA platform and the established solutions at the Member State level. There are three blocks of software to be designed and developed, based on the e-CODEX architecture: (a) a central multilingual pilot web portal; (b) a stand-alone Virtual Machine (VM) to be provided to partners which are currently lacking a national provider, in order to enable manual upload and update of information; and (c) a connector client at provider level, implementing the Application Programming Interface (API) to the central web portal, needed to retrieve the information from the national provider's system/database.

This report specifically refers to the first of the goals indicated above (Task 2.1 - Mapping stakeholders).



This task relates to the identification, management and engagement of a stakeholders' community (national authorities, professionals' workgroups/bodies, practitioners, investment funds, end-users, etc.) to identify:

- a) effective use of the national procedures related to judicial auctions;
- b) types of registers and available online facilities (e-signature, e-payment);
- c) barriers to access to auctions;
- d) information on procedures and assets' availability (EU and national level);
- e) national procedures and best practices (sale of seized assets), if available;
- f) barriers and potential issues related to the development of an EU online search engine.

This document is structured in 4 sections.

A short methodological introduction (Section 2), focusing on how the survey was carried out, is followed by an extensive section (Section 3) detailing the results of the analysis of the national case studies. Sections 4 and 5 will compare the above results and provide some reflections on the role of stakeholders within the surveyed e-auction procedures, respectively.



2. Methodology: questionnaire setting and data collection

In order to identify the previously mentioned items for mapping stakeholders and defining their needs, was provided survey-based research — conducted from March 10 to April 27, 2021 (action requested by task T2.1 of the LEILA Project) — sending a questionnaire to all MS partners (IT, LV, HR, PT, FR, LT, CZ involved directly in the platform development and integration, plus AT and BL).

During this period WP2 Team provided a draft version of the questionnaire to the partners for revisions, comments and suggestions collected during the “WP2 - Legal Workshop” held on March 31, 2021. After the partner validation, the survey was submitted to the partner themselves in its final version for filling.

The questionnaire was aimed at getting information to the preliminary analysis of functional and technical requirements.

The present scope of LEILA is limited to a platform providing:

- a standard search engine with a possible list of information/search fields;
- an automatic system through which the Member States can send information from their national systems or websites (based on a “pull mechanism” from the Portal to the Member State’s system);
- a manual system to insert information (uploading information) for MS without own systems, this questionnaire;

This system should be expandable to more modules supporting cross border e-auctions.

Therefore, this questionnaire had a broader scope and aimed to capture information for the identification and engagement of a stakeholders’ community (mapping stakeholders) and data collection of their needs starting from the definition of the reference framework on legal, organisational, and technological setting of judicial auctions at the national level, in particular:

- g) the legal framework relative to online judicial auctions;
- h) e-auctions steps in practice;
- i) the characteristics of existing electronic (and paper if not available) auctions related



- registers of assets;
- j) the characteristics of online national judicial e-auction systems (if available);
 - k) an assessment of the information available on the e-Justice Portal about judicial auctions;
 - l) an opinion on existing barriers and opportunities related to developing an EU online search engine from the national perspective.

This preliminary work is intended to set the global perspective for the next task of identifying, analysing and defining the preliminary functional, technical and even security requirements (T2.2). These requirements will be validated using a “feedback loop” with partners and stakeholders’ (T2.3) — through participative workshops, semi-structured interviews, online questionnaires to the other Member States — to provide inputs for reviews and refinement of requirements for achieving the final list of them, as a definitive result of the activities (T2.4).

The questionnaire has been submitted to selected national experts, one for each of the nine Member States participating in the project. Experts have also been called upon to participate in the follow-up activities, including focus groups for eliciting functional and technical requirements.

Regarding the study’s results hereby presented, it is essential to mention the following main points:

1. The replies to the questionnaire provided by the experts participating in the study vary consistently in substance, form and wording. Therefore, a great effort has been made to interpret answers and provide a general overview for all the Member States analysed.
2. As a method of analysis, we have decided not to modify or re-frame too much the answers provided by the experts when reporting them in this document to reflect the opinions provided adequately.
3. The study will need a process of reiteration based on the feedback of Member States that answered the questionnaire to enhance the internal validity of the research, improve the report and clarify data. This is important above all because some points remain unclear due to the reasons mentioned above.

At the bottom of this document, “Appendix 1” provides a copy of the questionnaire submitted to the national experts.



3. National findings

This section presents the results obtained through the answers to the questionnaire by the national experts of MS partners of the LEILA Project.

The description of the national systems is always preceded by a brief outline of the relevant legal framework.

For every single Member State analysed, the information obtained has been organised into five paragraphs. The first one describes the national auction system, from the steps necessary to have a property put up for auction to its award to the winning bidder. The second paragraph focuses more specifically on how online auctions are conducted. This is followed by information on both electronic and paper-based asset registers. Each Country section ends with two short paragraphs indicating respectively: whether the information as mentioned above is available on the e-justice portal and whether there is an e-Codex contact point.

The findings reported below are based only on the information that the experts have chosen to provide. The contents presented, therefore, although following the same pattern, are not presented homogeneously.

3.1. Austria

In Austria, judicial auctions are governed by the national Federal Enforcement Law, which includes provisions concerning the carrying out of online auctions. Only in specific cases, criminal law applies.

Auction of seized asset procedure

Once the asset has been seized, and the necessary steps to have it auctioned off have been completed, all the relating information is entered in the Austrian Court Case Management System and then automatically transferred to the official publication's website of the judiciary "Justiz Ediktsdatei" (<https://edikte.justiz.gv.at/edikte/edikthome.nsf>). A paper-based publication is no longer required. Publication must be online 14 days in advance of the auction date. This website provides information about the auctioned good and the conditions under which the auction will take place, together with the date, time and location of the auction. More detailed information is provided in the case of real estate auctions.



A specific auction Portal “Justiz Auktion Deutschland&Osterreich” is also available at the webpage <https://www.justiz-auktion.de/agbs>, where potential buyers can find all the auctioned items and related information (e.g. article description, shipping information, pictures, expertise, location etc.) together with details about how to place a bid. The value of the good (basic price) is also indicated. In this respect, it must be stressed that as far as movable goods are concerned, the auction base is usually established by the bailiffs themselves who seized the item; while in the case of high-value assets (e.g. real estate), the basic price is assessed and established by an official court expert, who is also in charge to draw up an extended court expertise document. Such a court expert is a private person with experience in the area, sworn-in by the court, which receives a copy of the main data of the case related to the object to be assessed.

About the methods according to which auctions can be performed, a distinction has to be made depending on the type and value of the item auctioned. As to real estate, very detailed information together with court expertise are provided online; however, the auction is conducted using traditional methods, as the Federal Enforcement Law does not foresee legal provisions for online auctioning of real estate in Austria. The action is thus carried out on site. Interested parties have to bring a bank savings book with 10% of the estimated value of the item auctioned, and the highest bid accepted is then published on the website. Movable goods of lower value, on the other hand, can be auctioned online via the Justiz Auktion Deutschland&Osterreich Portal, as well as at auction houses or on-site. It is up to the bailiff to decide about it.

Online auctions (movable assets only)

Online auctions are carried out via the Justiz Auktion Deutschland&Osterreich Portal. The latter is the German Justice Auction internet platform, founded by the Ministry of Justice of North Rhine-Westphalia in 2006 and overseen by the General Public Prosecutor's Office in Hamm, to which Austria has adhered since 2015.

This platform can be used only to auction movable objects that have been attached in the course of enforcement law proceedings, as well as items forfeited or confiscated in the course of criminal proceedings. Since 2019, insolvency administrators also have the opportunity to auction online assets from insolvency proceedings.

The technical handling of the individual internet auctions is carried out for the whole of Austria by a competence centre, set up for this purpose at the Innsbruck Higher Regional Court.

In the case the auction is carried out online, information as to the shipping costs for sending the auctioned item must be provided to the potential buyers. The bidder who gets



the auction by offering the highest price has to pay both the bid amount and the shipping costs within 14 days. Only after receipt of payment, the item can be sent at the risk of the purchaser. Shipping and related charges can be excluded only in those cases in which the item is picked up within 14 days of notification of the award of the contract against payment of the highest bid (e.g. in case of auctioned cars).

Bidding in the auction from another EU country is, as a matter of principle, possible. For a potential buyer to bid is sufficient to complete the registration of a personal profile on the portal, and the procedures to be followed to participate in the auction are similar to those commonly used by well-known websites offering similar services and functionalities. Along with this, shipping is also possible to other EU Member states (this is carried out by the court where the bailiff works).

Having said that, it has to be stressed that although advertising of judicial sales is available for all interested buyers regardless of their state of residence, the publication is entirely done in German, therefore focussing on a German-speaking audience. Other linguistic versions are not available.

Registers of assets

Movable assets, usually seized by judicial officers, are filed by the latter in a special register, usually electronic. However, such a register does not provide the structured data for publication. Therefore, details have to be re-entered for publication on the dedicated website. A new application for bailiffs is under development.

Information concerning immovable goods, together with basic data from the enforcement law case (file number, data about the auction, etc.), which is used for the publication of the auction, is provided electronically and also logged in the land register.

All above-mentioned registers are hosted on websites that are publicly accessible.

Information available on the e-Justice Portal

Austria has not yet provided information about national judicial auctions system.

Information on the e-CODEX access point

At present, in Austria an e-CODEX access point is in the making to support the application of European Payment Order and European Small Claims procedures. A second access points to support the application of the European Investigation Order will also go live.



3.2. Bulgaria

In Bulgaria, judicial auctions — including those carried out by electronic means — are primarily governed by the Civil Procedure Code,¹ together with other complementing legal acts regulating the organisation and activities of private bailiffs,² the organisation and activities of state bailiffs,³ and records keeping, and administration of documents related to judicial auctions in district courts⁴ respectively.

Notably, the Code of Civil Procedure details specific rules for the conduct of judicial auctions, outlining different procedures depending on the value of the object being auctioned. Thus, it lays down one procedure to be followed for the sale of movable property and a different procedure for the sale of goods of higher value — both movable and immovable (real estate). The threshold determining whether a movable property is to be sold under either procedure is BGN 5000 (approx. EUR 2500).⁵

Auction of seized⁶ asset procedure

As far as **movable properties of lesser value** are concerned,⁷ items can be directly sold by the bailiff, whether a private agent or public official, according to different methods:

1. Through a commodity exchange or a shop/store: in this case, the debtor brings the item to the store/shop, which takes charge of the goods, issuing a receipt that is then submitted to the bailiff.⁸ The bailiff can then advertise the sale of the item by issuing notices that are placed in specific physical locations (designated boards at the

¹ State Gazette issue No. 59 of 2007, last supplemented and amended Stage Gazette issue No. 15 of 19 February 2021.

² Private Bailiffs Act (promulgated State Gazette issue No. 43 of 2005, last supplemented Stage Gazette issue No. 107 of 18 December 2020).

³ Judicial System Act (promulgated State Gazette issue No. 64 of 2007, last amended and supplemented Stage Gazette issue No. 16 of 23 February 2021).

⁴ Rules on the Administration of Courts (promulgated State Gazette issue No. 68 of 2017, last amended and supplemented Stage Gazette issue No. 91 of 23 November 2020).

⁵ Civil Procedure Code, Article 474, Para 4.

⁶ Experts pointed out that the notion of “seized asset” is non-existent when discussing judicial auctions in light of relevant Bulgarian legislation. A property put for sale (regardless of applicable/legally required procedure) is foreclosed or frozen rather than “seized” (in the sense of confiscated). In the general case, up until the completion of a successful sale/auction the respective asset/property is not only considered to property of debtor but is often left to the debtor for safekeeping. There are the hypotheses where if the sale/auction is not successful the property is released and remains a property of the debtor.

⁷ Civil Procedure Code, Articles 465 – 482.

⁸ Article 478 of the Civil Procedure Code



respective district court, the office of the bailiff, the town/city hall).⁹ The value (price) of the item to be sold is determined by the bailiff.¹⁰ This cannot be lower than 85% of the evaluation made by the expert.

2. Through an open oral auction. If the item is not sold within three months following its placement/advertisement at the shop/store, the bailiff has to organize an oral auction, setting the basic price at 50% of that established initially for direct sales. The auction takes place in a physical location.¹¹ The judgment creditor must cover the expenses related to the auction within one month from the moment the property has been inventoried. Failing to complete this step results in the annulment of the auction and release of the property by the bailiff.¹² In order to initiate the action procedures, the bailiff drafts a protocol that provides the date and time of the auction as well as how the auction will be advertised and the parties notified.¹³ At the appointed date and time, the auction can start if there are bidders present. It will only be considered concluded when all the scheduled goods have been awarded.
 - For bidders to participate in the auction no deposit is required. The one paying the higher price can pick up the item after having paid the amount due in cash.¹⁴
 - Should no bidders be present or accepting the basic price following its third announcement, the auction is declared null, and the property given back to the debtor.

A different auction procedure must be followed for **properties exceeding the threshold value** mentioned above (whether movable or immovable). After the inventory has been completed,¹⁵ the bailiff must draft notice within a week. This notice must provide details about the item to be auctioned, the basic price of the property, as well as place and starting date of the auction. Such a notice is posted in physical locations (designated boards at the respective district court, the office of the bailiff, the town/city hall and the real estate itself where applicable) and also published on the regional court's website no

⁹ The placement of the notices is documented by means of placement protocols (Article 477, Para 3 of the Civil Procedure Code).

¹⁰ Article 479 of the Civil Procedure Code

¹¹ i.e. the building where the items are kept in custody or a different location agreed between the creditor/s and debtor/s. If no such agreement can be reached, the location is determined by the bailiff.

¹² Article 481, Paras 1 and 2 of the Civil Procedure Code

¹³ Article 481, Para 3 of the Civil Procedure Code

¹⁴ Should the bidder fail to pay the auctioned price, they are disqualified from further participation in the auction (Article 481, Para 7 and 8 of the Civil Procedure Code).

¹⁵ In the case of real estate properties, such an expert must be a registered, licensed appraiser.



later than one day prior to the auction. The bailiff determines the time for conducting inspections of the property.¹⁶

In this case, the value of the property is determined on the basis of an evaluation made by an appointed expert. This cannot be lower of its insurance value (if it is possible to determine it). For real estate, the value is determined by a licensed appraiser by means of an expert opinion. The licensed appraiser is appointed by the bailiff. Should any of the parties to the enforcement proceedings disagrees with the evaluation of the expert appointed by the bailiff, they may request additional evaluation be done by a different, registered licensed appraiser. Where there are two or more expert opinions on the value of the property, the latter is to be determined as an average of the values from the above evaluations. The starting price of the auction equals 80 per cent of the evaluation.¹⁷

The auction is conducted in the building of the regional court, where the documentation related to the sale is kept and made available to any interested person who has one month to place a bid. Bidders are required to make a deposit to the bailiff (amounting to 10 per cent of the basic price)¹⁸ and then submit the deposit receipt together with their offer (in writing) in a sealed envelope. Each bidder is allowed a single bid. Bids are registered in a specific register.¹⁹

The auction ends on the last day of the sale. Therefore, bidders can withdraw their offer until this moment. The first business day following the expiration of the one month term, bids can be opened in public session at the district courthouse and the item granted to who placed the highest bid unless at the time of the announcement of the submitted bids higher offers are proposed by the present bidders.²⁰ The winning bidder is required to pay the proposed price, minus the deposit in two weeks. Deposits made by all bidders who did not win the auction may be released only after the winning bidder has paid the proposed price.²¹

¹⁶ (Article 487, Paras 3 and 4 of the Civil Procedure Code).

¹⁷ Article 485 of the Civil Procedure Code

¹⁸ The creditor should also make a deposit unless the amount due is exceeded by the bidders' deposits.

¹⁹ Bids made by persons that do not have the right to participate in the public sale as well as bids for amounts lesser than the starting price and bids in excess of 30 per cent of the starting price are considered invalid (Article 489 of the Civil Procedure Code).

²⁰ Present bidder may increase their offer, but the latter can't exceed that of the winning bid by a margin equal to the amount of the deposit for participation. If two or more of the bidders have submitted winning bids in equal amounts, the winning bidder is selected by means of a draw (Article 492, Para 1 of the Civil Procedure Code).

²¹ (Article 493, Para 2 of the Civil Procedure Code).



Online auctions (movable and immovable properties above threshold value)

Civil Procedure Code provides specific rules, terms and conditions for auctioning online: moveable items; securities in paper form; separate and distinct parts of an undertaking; industrial property rights; immovable properties.²² Such electronic auction is to be conducted via a uniform online Platform for electronic auctions maintained by the Ministry of Justice,²³ which is to be considered the “place of the sale”,²⁴ and whose operating terms and conditions shall be established by means of an ordinance that has to be issued by the Minister of Justice.²⁵ Nevertheless, such an online Platform is currently being developed under a public procurement contract awarded by the Ministry of Justice;²⁶ therefore, at present, carrying out an electronic auction in Bulgaria is not possible in practice. At any rate, as soon as this will be available, the procedure may be initiated at the request of any of the parties to the enforcement proceedings or at the initiative of the bailiff.

As in the traditional paper-based procedure, even in the case of electronic auction a prerequisite to start the process is the publication of a notice, which is to be posted both in the physical location already mentioned above as well as online. Likewise, the same rules concerning the determination of the value of the items to be auctioned apply.

For a bidder taking part in an online auction, the following basic steps must be taken:

- a) a sum amounting to the 10% of the basic price must be deposited;
- b) registration in the online platform must be completed, either by using an electronic signature²⁷ or at the office of the bailiff. Bidders have one month to complete their registration, until 5 p.m. on the closing date indicated in the notice. The bailiff can reject registration only in two cases: i) if the required sum is not deposited with five days from the registration date; ii) the bidder falls within the category of persons that do not have the right to participate in a public sale.

As to the payment of both the deposit and the price of the bid, specific rules concerning the methods of payment are not set by the national legislation; however, any payment

²² Article 501a, Paras 1 – 3 of the Civil Procedure Code

²³ Article 501a, Para 5 of the Civil Procedure

²⁴ Article 501b, Para 6 of the Civil Procedure Code

²⁵ Article 501a, Para – 6 of the Civil Procedure Code

²⁶ The contract was awarded on 11 June 2020 with a term for implementation of 6 months. However, there is no publicly available information on whether the contract has been completed in due time or its duration has been extended. The platform is envisaged as a module to a national registry of liens (also being developed under the same public contract).

²⁷ National judicial auctions legislation does not specify the type of electronic signature to be used (simple, advanced or qualified electronic signature)



amounting to more than BGN 10 000 (approx. EUR 5000) has to be completed by means of a bank transfer according to the 2019 Act on Limiting Cash Payments.

The bidding steps during an electronic auction are determined on the basis of the starting price: 1) where the starting price is lower than BGN 10 000 (approx. EUR 5000), the bidding step amounts to 10 per cent of the starting price; 2) where the starting price is in the range BGN 10 000 (approx. EUR 5000) – BGN 100 000 (approx. EUR 50 000) the bidding step amounts to 5 per cent of the starting price; and 3) where the starting price is higher than BGN 100 000 (approx. EUR 50 000) the bidding step amounts to 2 per cent of the starting price (Article 501e of the Civil Procedure Code).

Registers of assets

There are no provisions regulating the publication/entry of information relating to a judicial auction in a property register. Currently national law does not provide for a specific register or registers announcing a judicial auction of property (moveable/immoveable/IPR/securities).

A sales register is currently maintained by the Bulgarian Chamber of Private Bailiffs, which is the only online source providing information about announced and ongoing judicial auctions available to the public. This is not, however, an official register, thus accordingly making use of it is not mandatory. It only serves as a listings classifier with no functionality facilitating electronic and online conduct of the auctions.

Information available on the e-Justice Portal

Bulgaria has not provided information about national judicial auctions system yet.

Information on the e-CODEX access point

Two e-CODEX access points have been set up as part of the activities under the ‘EXEC - Electronic Xchange of e-Evidence with e-CODEX’ Project, GA 785818, within the context of the EIO procedure: one in the Administration of the Supreme Judicial Council (Bulgaria), and another – in the Administration of the Prosecutor's Office (Bulgaria):

- Aneliya Chomakova, a.chomakova@vss.justice.bg, Representative of the ‘Information Technologies and Judicial Statistics’ Directorate to the Directorate to the Administration of the Supreme Judicial Council; and
- Borislav Smilyanov, bobism@prb.bg, Director of the ‘Information services and technologies’ Directorate to the Administration of the Prosecutor's Office.



The access points are currently maintained with regards to the e-EDES implementation on the national level.

As part of the ad hoc discussions with regards to the Proposal for a Regulation of the European Parliament and of the Council on a computerised system for communication in cross-border civil and criminal proceedings (e-CODEX system), and amending Regulation (EU) 2018/1726, the Ministry of Justice of Bulgaria is currently reviewing the use cases that are applicable to the ministry with regards to the setting up of an access point there. Two more access points are also expected by 2023.

3.3. Czech Republic

In the Czech Republic, judicial sales (including online judicial sales), auctions, online registers are mainly covered by the Civil Procedure Code (part VI),²⁸ together with the Decree of Ministry of justice on the procedures for the activities of judicial officers²⁹ and the Decree of Ministry of justice about Central register of enforcement proceedings.³⁰ This matter is further governed by the Act on judicial officers.³¹

Notably, the Civil Procedure Code and the Act on judicial officers both allow conducting online auctions using electronic means for selling both real estate (since 1st November 2009) and movable assets (since the 1st of January 2013). Currently, judicial officers, courts and Tax (financial) administration bodies are all entitled to conduct e-auction. However, with the exception of judicial officers, this option is seldom (tax bodies), if at all (courts), used in practice.

Auction of seized asset procedure

No information available.

Online auctions (movable and immovable properties)

Since autumn 2020, e-auctions can be carried out using the commercial auction systems (portal) or the Chamber's auction system (central portal).

Information on auctions to be conducted by any judicial officer, electronically or otherwise, must be posted on the central auction portal available at

²⁸ (<https://www.zakonyprolidi.cz/cs/1963-99>)

²⁹ (<https://www.zakonyprolidi.cz/cs/2001-418>)

³⁰ (<https://www.zakonyprolidi.cz/cs/2008-329>)

³¹ (<https://www.zakonyprolidi.cz/cs/2001-120>)



<https://www.portaldrazeb.cz>. The portal, managed and administered by the National Chamber of Bailiffs of the Czech Republic, as of fall 2020, includes the electronic auction system that bailiffs can use.

The process for e-auctions is largely similar to that used to conduct traditional auctions. First of all, the item to be sold must be evaluated: a) real estate has to be evaluated in advance by registered experts, while movable properties may be assessed by the judicial officer (if the law does not require otherwise). The basic price must also be determined in advance (2/3 of the real estate determined price and 1/3 of the movable determined value).

The judicial officer has then to specify the conditions for the auction to be conducted, inter alia:

- the method of registration of the participants;
- the method for notifying the procedure to be followed at auction or a reference to a website where such procedure is described and published;
- the address of the website where the auction will be conducted and where the public can follow up the auction;
- date and time when the auction will start and finish, during which bids may be increased;
- (only real estate) the term by which the successful bidder must state whether they will pay the highest bid using credit involving the establishment of a lien on the auctioned real estate;
- (only movable assets) the manner and time by which the successful bidder is obliged to pay the highest bid; the term for paying or paying up the highest bid.

Auction notice must be published at least 30 days before the date set for the auction taking place on the portal, the official bulletin boards (enforcement agent, municipalities).

Auction notice generally includes:

- description (optional);
- documents (auction notice - mandatory, expert evidence - optional);
- pictures (optional);
- legal information and guidance (mandatory);
- possible detailed descriptions (e.g. expert evidence) and pictures.



Just before the auctions take place, the judicial officer must also post information about the use of pre-emptive rights by individuals who are entitled to do so.

Potential bidders have to fulfil special conditions. They have to:

- be registered on the auction portal;³²
- log in to the specific auction (every participant will receive a unique user name so they cannot be recognized by other participants or the public);
- properly prove his identity in advance (personally, sending verified documents, e-identity etc.);
- pay registration deposit, if ordered (in cash or in advance using bank transfer payment).

In the auction process cannot take part: Judicial officer and his employees, the debtor and his/her spouse.

No one is allowed to make the same bid previously placed by other participants, with the exception of those bidders entitled to pre-emptive rights.

If a bid is placed 5 minutes before the set ending time of the auction, there is an assumption that the participants are still interested in making bids. The end of the auction is then postponed by 5 minutes after the last bid.

Once the auction has come to an end, the results are posted on web site, and the participants are allowed to raise an objection against the award (acceptance of the successful bid). The buyer remains anonymous (only real estate) because of the so-called 'overbid' phase. The latter provides that, within 15 days after the auction has closed, anyone may offer a further bid, which must be at least 25% higher than the sales price reached during the auction. Overbids cannot be placed online; they can only be submitted before the bailiff.

As to the payment, movable properties must be paid within 10 days after the sale has ended, while real estate must be paid within 2 months after the bailiff 's resolution on acceptance of the highest bid becomes enforceable. Payment is made to the bailiff (in cash under 14 000 € or via bank transfer).

³² Registration can be completed in person; by post (authenticated signature); e-signature (eIDAS regulation); data boxes (specific e-delivery platform)



In the case the payment is not completed in due time, the auction will be repeated, and the winning bidder must pay the costs of the previous auction together with the difference between his/her own bid and the highest bid made during the second auction.

There is no specific monitoring on the e-auction system except the judicial review on appeal.

Registers of assets

Cadastre, National databases managed by Industrial Property Office, central vehicle register (ship, planes etc.), Domain register. These are kept and can be accessed electronically.

Information available on the e-Justice Portal

Partially available.

Information on the e-CODEX access point

Ministry of justice is now testing an e-CODEX access point (within ongoing EXEC 2 project, which aims to launch the e-EDES platform)

3.4. Croatia

In Croatia, judicial auctions are mainly governed by the Enforcement Act³³ and the Bankruptcy Act.³⁴ Complementing rules are also provided for through the following regulations:

- Ordinance on Mode and Process of Selling Movable and Immovable Property in the Enforcement Procedure;³⁵
- Ordinance on Kinds and Heights of Fees for Performing the Sale of Movable and Immovable Property in the Enforcement Procedure;³⁶

³³ Official Gazette No 112/12, 25/13, 93/14, 73/17, 131/20

³⁴ Official Gazette No 71/15, 104/17

³⁵ Official Gazette No 156/14, 1/19, 28/21

³⁶ Official Gazette No 156/14



- Ordinance on Amendments to the Ordinance on Content and Mode of Keeping a Register of Movable and Immovable Property Being Auctioned in the Enforcement Procedure.³⁷

The Financial Administration (FINA) participates in the enforcement proceedings on real estate and movable property, pursuant to the Enforcement Act, the Bankruptcy Act and the relevant ordinances, and operates the electronic public auction system. The Agency is the public administration in charge of the operating online judicial auction platform.

Auction of seized asset procedure

Replies to the questionnaire did not mention a traditional (paper-based) auction procedure.

Online auctions (movable and immovable properties)

The auction procedure initiates when a motion for sale is sent by courts, public notaries or trustees in bankruptcy to FINA. The latter publishes the information about the property – whether movable and immovable - to be sold online on its website <https://www.fina.hr/en/e-auction>. In the section "Register", information about the movable and immovable property are included; in the section "Public posting", all documents that FINA issues as part of the sale process and which need to be posted publicly are published. On this page, also documents submitted by competent bodies to FINA are published. Only after the creditor has paid the fee, publishes the Call for participation in e-Auction, which must remain open for at least 60 days.

FINA does not actively advertise e-Auctions, but all interested parties can get all the necessary information on FINA's official website. However, e-Auctions are usually advertised via other channels, like real estate agencies, advertising websites for buying and selling various items, etc.

The FINA website provides information in both Croatian and English. However, the e-Auction service is available only in the Croatian language,

The e-Auction portal allows the users to:

- electronically sign the application for participation in a specific electronic public auction, and

³⁷ Official Gazette No 156/14



- submit a bid electronically, assuming that s/he meets the requirements stipulated by legal and regulatory provisions.

To access the service, the interested person must firstly comply with technical requirements - that is, being in possession of a computer and internet access. They also must have the appropriate digital certificate issued by FINA itself for the advanced electronic signature needed to sign the request for participation (as an alternative to the digital certificate, a cobranding bank can be used. FINA is also planning to enable access through other credentials from EU trusted list).³⁸ FINA is indeed the first Qualified Trust Service Provider in Croatia, issuing digital certificates for the public and being registered in the Records of Certification Service Providers in the Republic of Croatia maintained by the central state administration body competent for economic affairs.³⁹

Persons meeting these requirements can fill out the application form for using the e-Auction service by indicating their Personal Identification Number (OIB).⁴⁰ All necessary documentation related to the service must be delivered to FINA's Registration Offices directly, by registered mail or electronically, in the manner specified in the User Guide for document submission online service, which is an integral part of the General Terms of Use of the document submission online service. A list of Registration Offices is available on the FINA website. In this respect, it is worth mentioning that to make e-Auction more accessible and efficient, the Ministry of Justice and Public Administration and FINA are working on the digitalisation of all the procedure segments, e.g. submitting all necessary documents electronically.

Potential bidders have to place a security deposit to apply. Starting from the e-auction opening date, bidders have ten days to submit their offers, at the end of which the auction is closed and notice of the completed settlement sent to the court.

The real estate as well as the movable assets value is determined by discretionary court conclusion, but it is based on the findings and opinions of an authorised construction expert and/or consent of the parties obtained by the court.

Note that for an e-auction being started, all the parties involved have to pay specific fees: the creditor has to pay a fee for e-Auction, and every participant must pay a security

³⁸ A business entity must have Fina's business digital certificates on FINA's e- card or USB token or CoBranding card / token of a bank with which Fina has a business cooperation agreement. A natural person must have Fina's personal digital certificates on the FINA e-card or a USB token. See [Terms and conditions of the e-Auction service](#) 07. 05. 2021. 156kb

³⁹ FINA performs Digital Certificate issuing services in accordance with the Electronic Signature Act and the EU Regulation on electronic identification and trust services for electronic transactions in the internal market. See <https://www.fina.hr/en/fina-register-of-digital-certificates>

⁴⁰ This is provided by the Ministry of Finance – Tax administration



deposit in order to place a bid. Furthermore, the bidder who wins the auction has to pay a purchase price too. According to the court conclusions, all the payments must be transferred to FINA's accounts, and FINA disposes of those funds exclusively.

Registers of assets

FINA is obliged to keep the Register of Real Estate and Movable Property Sold in Enforcement Proceedings (if their estimated value exceeds HRK 50,000) permanently. The Register is in electronic form and is available via the application Register of Real Estate and Movable Property (<https://ponip.fina.hr/ocevidnik-web/pocetna>). The Register may contain photographs of movable property, photographs of real estate and blueprints from the value assessment report delivered to FINA by a competent body at the party's proposal.

The application can be accessed by any user who wishes to obtain information about the current state of subjects of sale entered into the application. Using the application is entirely free of charge. The Register search is possible according to the following criteria:

- by the type of sale item (immovable property, movable property, rights, assets)
- by the type of procedure (enforcement, bankruptcy, enforcement/bankruptcy)
- by the specific file (file reference number)
- by the location
- by the sale item value.

Every sale item has its sale status displayed (e-Auction in process, placing a bid in process, e-Auction completed, e-Auction postponed, etc.)

The Agency keeps the documents received from the competent authority and the documents made by the Agency in the process of conducting sales in paper form for five years; it keeps the documents received from the competent authority and the documents made by the Agency in the process of conducting the sale in electronic form on an appropriate medium for ten years, from the day the Agency receives the decision by which the competent authority determines that the enforcement procedure is completed when the Agency receives the decision to suspend the enforcement procedure when the competent authority notifies the Agency that the subject of enforcement has been sold or from the expiration of the year in which the Agency took its last action in the sale procedure by electronic public auction.



Information available on the e-Justice Portal

Croatia has been involved in all activities regarding judicial auctions from the early beginning and, as an active participant at the Expert Group on Judicial Auctions within the Council, it provided the all necessary and required data in the envisaged timeframe. However, relevant information and data are not entirely adequately visible and accessible on the Portal.

Information on the e-CODEX access point

The Ministry of Justice and Public Administration has been working on improving the access point as an active partner in the EXEC II project (Electronic Xchange of e-Evidences with e-CODEX). The access point is still not in production, but it is expected to be in production until the end of 2021.

As an operator of e-Auction service, Fina will not be able to use the access point of the Ministry of Justice and Public Administration of the Republic of Croatia, which is currently still being established within another project.

3.5. France

In France, public auctions follow different rules depending on the type of sale and goods to be auctioned:

- voluntary sales of movable or immovable property, concerning goods that their owner willingly entrusts, are governed by Law n°2011-850 of 20th July 2011. They are carried out by authorised auctioneers working in specific companies approved by the French Sales Council and fall outside the framework of forced execution procedures, which are judicial;
- spontaneous judicial auctions take place when the owner wishes to sell the property, but in the interest of one or more of the parties, the applicable law or the judge impose that the sale is made at a public auction in a judicial form;
- mandatory judicial auctions are prescribed by law or by the judge, without the consent of the debtors, whose goods are sold to cover their obligations to creditors.

Auctions of real estate are exclusively conducted before the enforcement judge of the judicial court; while, with regard to movable properties (in particular, seized movable property), judicial auctioneers, notaries, sworn commodities brokers and bailiffs are the only professionals authorised to organise judicial sales at public auctions.

In this respect, it is worth pointing out that, according to the Growth and Activity Act (known as the “Macron Act”) of 6th August 2015, as of the 1st July 2022, the professions of bailiff and judicial auctioneer will be merged in a new professional profile, the so-called “commissioner



of justice” (commissaire de justice). The ordinance n° 2016-728 of the 2nd June 2016 stipulates that commissioners of justice will be competent to carry out inventories, auctions, and public auctions of the tangible or intangible movable property starting from the date above prescribed by law or a court decision. They will also be able to organise and carry out sales, inventories and corresponding auctions falling under the activity of a voluntary sales operator. It follows that they can obtain information about the debtors’ addresses, the identity and address of their employer or any third-party debtor or custodian of liquid or payable sums and the composition of their real-estate assets from State, regional, departmental, and municipal administrations and public institutions or bodies controlled by the administrative authority.

Auction of seized asset procedure

As far as mandatory auctions are concerned – whether referring to immovable or movable properties - the methods through which the sale must be conducted are strictly regulated, and so are the information relating to the item to be auctioned that must be published in advance.

Judicial sales of immovable properties take place at the Judicial Courts (High Courts – TGI – up to 31 December 2019), which are civil courts. Each court organises a property auction on a fixed date and decides the price of the property to be sold. Anyone can attend, but it is essential to be represented by a lawyer in order to purchase the property. The Code of Civil Enforcement Procedures governs these sales.⁴¹ Accordingly, a complex procedure has to be followed. The latter is initiated by a claim against the owner of the property lodged by the creditor. This is indeed usually triggered by a creditor (bank or credit guarantee organisation) who has financed the purchase of a property by registering a mortgage (a guarantee on the property). If the debtor fails to pay the loan instalments, the creditor asks for the property to be seized and put up for sale.

Anyone interested in participating in the auction must issue their lawyer with bank security or a bank cheque representing 10 % of the reserve price (this amount may not be less than 3 000 EUR). At the end of the auction, this sum is returned to all non-winner bidders.

If there is no bidder, the creditor becomes the new owner of the property. In order to seize the property, it is necessary:

- to be in possession of an uncontested court decision;
- the issuance of a summons to pay;

⁴¹ (Articles L. 322-5 onwards)

https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000025024948/LEGISCTA000025025920/#LEGISCTA000025026546



- orientation hearing and bidding.

The procedure ends with the sale of the property and the payment of the debt to the creditor.

As mentioned above, auctions falling within this category are not delegated to a commissioner of justice. They are under the responsibility of the court itself; thus, they do not fall within the scope of the LEILA project.

As far as movable goods to be auctioned are concerned, the Code of Civil Enforcement Procedures⁴² provides for a procedure similar to the one used for the sale of immovable property but with some relevant differences. Firstly, within this category of goods, some items (for instance, those deemed necessary for everyday life) can be declared non-seizable and, therefore, be exempted from the mandatory sale. Also, a payment order must be issued and notified to the debtor. Only after eight days have elapsed since the notification of the payment order to the debtor, the competent professional can seize the debtor's movable personal properties and inventory them. The debtor has one month to sell the goods amicably.

Once the goods are put up for sale, the commissioners of justice establish the value of each item (after an evaluation carried out by an expert where appropriate). Information regarding the sale and the goods must then be published and made available to the public in advance on the website of *the professional taking care of the sale*. The notice must also be displayed at the municipality's town hall in which the debtor resides and at the place of sale. Advertising in a prospectus or catalogue is also possible. The judicial commissioner shall certify the completion of the advertising formalities.

As mentioned, such sales cannot be carried out online but must occur in a venue specifically provided for by the law. Traditionally, the sale is open to the public, and the asset is sold to the highest bidder. The sale shall be carried out by public auction either at the place where the seized objects are located, in an auction room or any other place open to the public whose geographical location is the most appropriate for soliciting competition at a lower cost. For the forced sale of moveable property, no security deposit or guarantee is required; however, a deposit can be required by auctioneers: judicial auctions (moveable goods): from 7,25% to 1,99%".

⁴² Articles L. 221-3 onwards and R. 221-33 onwards:
https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000025025850/



Online auctions (movable and immovable properties)

Several online platforms in France can carry out voluntary sales. The common characteristic is that they offer the possibility to bid online via the platform in question. They are usually accessible upon registration. Given the configurations of auction websites, only people who have registered for the online auction may access the sale through the website. However, the sale remains generally open to the public at its physical location.

While judicial auctions cannot be carried out completely computerised, they can be broadcasted live. There are two types of an online auction in France for the auctioning of moveable property:

- ‘Live auctions’, which are partially computerised: the sale physically takes place at a given location and is broadcast live online on the website of the professional person or body performing the sale, or on one of the appropriate websites available to professional auctioneers (<http://www.interencheres.com/> or <https://www.drouotlive.com/>) These judicial auctions are permitted as there is nothing to prevent them. They are becoming increasingly common.
- ‘Online auctions’, which are entirely computerised: the sale takes place solely online, without a physical presence at a given location. Due to technical and judicial obstacles, these sales are not permitted in judicial cases under the current law.

(Partially) computerised auctions are only possible for the moveable property.

The professionals who perform the sales may advertise them outside France, and bids may be submitted from any bidder irrespective of their location or nationality and whether the sale is live or not (there are also remote auction procedures such as bids sent in writing or by telephone).

In order to take part in a computerised auction, the person (the potential bidder) is not required to provide their signature, but the professional in charge of the sale may require credit card details. The professional in charge of the sale take registrations, which can in principle be conveyed by any means, the most common being through the website on which the auction will be broadcasted. Written bids are possible on any medium.

The professional in charge of the sale determines the accepted means of payment.

Remote bidders are not required to attend in person (but they may do so if they wish). They can follow the auction live and bid in real-time. They may also register one or more bids before the sale. In such cases, the bids will increase progressively, taking the proposed bid into account from the beginning. A telephone link is also generally available during the auction.

Translation depends on the professional in charge of the sale and their assistants as there are no specific provisions.



Given the configurations of auction websites, only people who have registered for the online auction may access the sale through the website in question. However, the sale is open to the public at its physical location.

Registers of assets

Generally, most of the publicly available registers are subject to the provisions of the Code on Relations between the Public and the Authorities, which stipulates that access to administrative documents should be free of charge when viewed at their location or charged for at a cost equivalent to the cost of copying them if a copy is provided, or free of charge when sent by email if the document is available in digital format.

Several registers are accessible online:

- The INPI provides access to various documentary records through its website.
- Concerning aircraft, the register maintained by the ministry in exchange for civil aviation can be accessed online for informational purposes.
- Some land register services can also be accessible online.

Information available on the e-Justice Portal

The information provided on the e-Justice Portal is accurate. The information is currently being amended in order to, we suppose, integrate the recent evolutions in the legal framework (e.g. the creation of the new profession of Judicial Commissioners).

Information on the e-CODEX access point

In France, there are e-CODEX access points, but no existing calendar regarding auctions and sales.

3.6. Italy

The Italian legislation covering judicial sales is quite vast. The Civil Procedure Code (Book III – arts. 474-633) covers the execution process and the implementing acts of civil procedure code from art. 153 to art. 187 bis. These rules are then complemented by a variety of legal instruments (the Law n. 80/2005 and subsequent amendments; the Legislative Decree 83/2015; the Legislative Decree 59/2016 and the Ministerial Decree 32/2015) and specific provisions regulating the use and functionalities of the Public Sales Portal (Technical specifications of Public Sales Portal; Technical specifications of art. 26 of Ministerial Decree 26/02/2015 n.32; Decree 5 December 2017 to access the full functionality of Public Sales Portal;



Provision of General Director of Information System Department of Ministry of Justice of the 12 January 2018 for the adoption of the Technical specifications of Public Sales Portal).

Notably, the Ministerial Decree 35/2015 establishes the technical rules for participation in the auctions through an online form on the Public Sales Portal. The Portal is owned by the Ministry of Justice and is used for advertising both judicial and non-judicial sales of assets (movable, immovable) and can be accessed by:

- subjects within the Ministry (clerks, magistrates and system administrators);
- subjects entitled to publish using smart-cards;
- citizens navigating the advertisements published and who need to fill out the offer form without registering on the Portal.

As to judicial sales to be conducted with electronic means, the Portal allows citizens to fill in the offer and then transmit it to private entities, such as advertising websites and telematic sales managers authorized by the Ministry. The latter subjects manage the sales operations during the auction in the presence of the judge and the sales representative.

Auction of seized asset procedure

The proceeding leading to an auction can start when the competent judge issues a sale order, in which the following terms are established:

- the conditions and terms of the auction sale;
- whether it should be delegated to a professional;
- the terms and conditions for the deposit of the deposit;
- the closing date for the submission of bids;
- the hearing for the competition between the bidders;
- the deadline by which payment of the remaining price must be made;
- the other conditions of the sale.

Based on this order, a notice of sale can be drafted and published. The latter document - drawn up by the delegated professional (the sales representative in individual enforcement procedures or by the Curator/ Commissioner/Liquidator in insolvency procedures) - allows the public to know the essential information to be able to participate in the auction. The notice contains, for example:

- the description of the property offered for sale
- the date, time and place of the auction;



- the base price⁴³
- the minimum bid
- the deadline for submission of bids
- the method of sale
- the website on which the evaluation report is published.

The notice can be published on the Public Sales Portal by the person entitled to perform this task (experts, lawyers, accountants, accredited publishers who have a role in the registry). Information can be provided in English and German.

Interested individuals who want to participate in online auctions must have a digital signature⁴⁴ and Certified electronic e-mail. In order to place a bid, they first must pay a deposit and duty stamp and fill in the online participation form. Bidders have finalized the offer by sending the .zip.p7m extension package (as required by the Technical Specifications) through certified electronic e-mail to the Ministry's certified e-mail account. The offer is filed only when the complete receipt of the delivery is produced by the certified e-mail manager of the Ministry of Justice.

The bid received at the certified e-mail address of the Ministry of Justice is automatically decrypted, not earlier than 180 and not later than 120 minutes before the time set for the starting of the sales operations. The offer is then sent to the telematic sales manager for carrying out the sales operations.

Accepted payment methods are the following: bank transfer, credit card, surety, etc.

Online auctions (movable and immovable properties)

See above.

Registers of assets

SICID and SIECIC registers (in which the subjects entitled to publish on the PVP have a role) and Public Sales Portal PSP.

⁴³ In individual enforcement procedures, the auction base is determined by the judge, or by his delegate, having regard to the market value of the asset on the basis of the elements provided by the parties and by the expert appointed by him.

⁴⁴ Cades (Cryptographic Message Syntax Advanced Electronic Signature)



The registers are for the use of the judicial office and may contain data of movable and immovable properties which will be published on the PSP.

Information available on the e-Justice Portal

Information is partially available on the e-Justice Portal.

Information on the e-CODEX access point

The Italian Ministry of Justice has a testing environment available at the following endpoint: <https://domibustest.giustizia.it/>. The release of the AP in production environment it's planned by June, the 30th.

3.7. Latvia

In Latvia, judicial electronic auctions (e-auctions), including those resulting from insolvency proceedings, are governed by the Civil Procedure Law, Division 14 “Application of Enforcement Measures”. Accordingly, enforcement against the property to be sold is carried out by a bailiff operating within the court’s district in whose jurisdiction the property is located. Bailiffs are also responsible for carrying out all the actions required for conducting the sale, from posting the relating announcements to registering the interested bidders and authorising them for participation.⁴⁵ In case of insolvency proceedings, the competent administrator is called to perform these same duties.

Cabinet Regulation No. 318 of 16 June 2015 lays down rules concerning the registration of participants to the e-auction, information to be gathered, how to authorise bidders to participate in the auction. This also set provisions regarding the technological tools to be used to place and register bids.

Auction of seized asset procedure

No information about “traditional” on-site/paper-based procedure has been provided.

Online auctions (movable and immovable properties)

Since July 1st, 2015, e-auctions can be carried out for voluntary sale conducted by third parties/companies and seized assets in respect of which a court decision has been issued following enforcement, insolvency or bankruptcy proceedings initiated after that date.

⁴⁵ Section 605.1 of the Civil Procedure Law



e-Auctions of seized assets are divided into various categories, among which the most relevant are “movable properties” and “real estate”. Depending on the category concerned, different rules apply. Relevant details are available when applying to e-auction.

These sales are entrusted to the bailiff or the insolvency administrators. The latter professionals are in charge of announcing the sale of an asset in the Official Gazette of the Republic of Latvia (Latvijas Vestnesis) and publishing such an announcement on the e-auction site (both in Latvian and in the English language). Information provided in the announcement includes:

- the given name and surname of the owner and the creditor of the property, and for legal persons, their name and legal address;
- the given name, surname, official appointment location and location of practice of the bailiff;
- a short description, location and land registry number of immovable properties;
- link to the Land Register, the date, subject matter and a time limit of the contract of the right of superficies if the right of superficies is auctioned;
- an appraisal of the property;
- the stage number of the auction (possible values 1, 2,3 and 4 or “Atkārtota”, which in EN means “repeated”);
- the starting price and the bid increment;
- the starting date and final date and time of the auction;
- whether the auction price is taxable with VAT and what is the applicable value of such price;
- the amount of deposit to be paid into the bailiff's deposit account;
- the date until which a person, who wishes to participate in the e-auction, may pay the amount of deposit;
- the website, where information regarding procedures and provisions for registration of persons for participation in the auction and participating in bidding are available;
- pictures and other documents (appraisal) can be attached.

The starting date of e-auction may not be scheduled earlier than ten working days after the announcement is published in the Official gazette.



The prerequisite for participating in the e-auction is having log-in information confirming the identity of the bidder. A person wishing to take part in an e-auction must register on the e-auction website (<https://izsoles.ta.gov.lv>) to register a bid.

Only the persons who have submitted a security deposit/participation fee within the specified time may participate as a bidder in the e-auction. When the first log-on to a particular e-auction, the person is required to fill in a registration form for participation.

A bailiff shall authorise a person for participation in the e-auction within five working days after the online request of the person if there are no restrictions.

An auction ends on the twentieth/thirtieth day at 13.00 o'clock.

If a bid is made when less than five minutes are left, the time is extended by a further 5 minutes. The e-auction will last for as long as bids are made.

Its bid binds a bidder until a higher bid is made. Property is sold to the highest bidder; if the bidder does not pay the purchase price by the end of the given time, the bailiff may sell the property to the second-highest bidder. The deposits of bidders whose bids were not highest are repaid to their bank accounts immediately.

Within 24 hours after the end of the e-auction site automatically generates a document with information on the e-auction. Based on this document, the bailiff requests that all competent authorities keep a register, delete any encumbrances and/or prohibitions on the sale of the property and register the new owner in cases where applicable.

After the seized/debtor's property has been sold at the e-auction, the court must approve the statement of the auction of the property.

All the payments can be paid electronically, i.e., via internet banking, to the bank account specified by the bailiff or in the e-auction website via payment of a national service provider (latvija.lv).

Registers of assets

As far as movable or immovable properties are concerned, bailiffs have the following registers related to assets sold in e-auction:

- Land register
- The Road Traffic Safety Directorate (Vehicles and watercrafts' register).
- The Register of Enterprises
- Spousal Property Relations Register



Such registers are kept electronically by various state authorities, and some of them can be (partially) accessed by any user after identification.

Information available on the e-Justice Portal

No information is provided in the e-Justice Portal

Information on the e-CODEX access point

There are plans for setting up an e-CODEX access point, currently in testing (not available in production).

3.8. Lithuania

In Lithuania, judicial sales and auctions are governed by the Code of Civil Procedure of the Republic of Lithuania;⁴⁶ the Instruction for enforcement of decisions;⁴⁷ the Rules for the Sale of Property at Forced Auctions during the Insolvency Proceedings;⁴⁸ the Law on Personal Bankruptcy of the Republic of Lithuania;⁴⁹ and the Law on Insolvency of Legal Entities of the Republic of Lithuania.⁵⁰

Auction of seized asset procedure

No information about “traditional” on-site/paper-based procedure has been provided.

Online auctions (movable and immovable properties)

Every interested individual can place a bid to participate in an auction, except for the bailiff who organises the competition and other bailiffs and the staff working in the same office, as well as their close relatives and spouses.

In order to participate in an e-auction, interested individuals must identify themselves by electronic means and pay a registration fee amounting to 10% of the basic auction price of the item to be sold.⁵¹

⁴⁶ <https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/asr>

⁴⁷ <https://www.e-tar.lt/portal/lt/legalAct/TAR.64941CC184C3/asr>

⁴⁸ <https://www.e-tar.lt/portal/lt/legalAct/095d36402b1611eabe008ea93139d588>

⁴⁹ <https://www.e-tar.lt/portal/lt/legalAct/TAR.4CF08CA2BA45/asr>

⁵⁰ <https://www.e-tar.lt/portal/lt/legalAct/68f2cad098b711e9ae2e9d61b1f977b3>

⁵¹ In case of successful participation in the auction, the participant's registration fee is included in the final purchase price.



The price of the property is usually set by the bailiff who seized the property, taking into account its possible depreciation, the market price, as well as the opinions of the debtor and the creditor. In the case that the debtor or creditor does not agree with the price set by the bailiff or the bailiff herself/himself has doubts about the value of the property, an external expert can be involved in the process. The basic price is set at 80% of the market value. When a significant period of time elapses between the date of the seizure of the property and the announced auction, the property's value may have changed due to market fluctuation. In this case, the bailiff values the property again. If the bailiff does not re-evaluate the property on his/her initiative, the debtor or creditor may apply in writing and request a re-evaluation of the property. In the case that the bailiff does not satisfy such a request, a complaint by debtor or creditor can be lodged to the bailiff. If the bailiff does not re-evaluate the property following a complaint, the bailiff must refer the debtor's or creditor's complaint to the court.

The competition must be announced during working days - from 9.00 am to 14.00 am - on the following webpage

www.evarzytynes.lt, which is managed by the State Enterprise Center of Registers that is the organisation in charge of operating the national online judicial auctions platform. On the website, all information about the property is provided (e.g. basic price, starting and ending time of the auction, municipality, object description including defects - the last offer price in real-time and, at the end of the auction, the price at which the property has been sold). This platform provides the users with relevant legal acts, instructions for use, and applicable rules concerning personal data protection. An English version of the website is available.

To access the platform,⁵² potential bidders must identify themselves with a mobile electronic signature or through electronic banking systems and e-Government Gateway.

The e-auction takes place on a specific website www.evarzytynes.lt. Once the auction has started, price offers can be placed, increasing the basic price by 0.5, 0.3 or 0.1 percent, depending on the initial price of the property. The higher the price, the smaller the range. The item is awarded to the participant who has placed the highest bid. All the other participants will take back the fee deposited after the deduction of the bank charges. The participant who has won the competition must pay the price of the purchased property to the deposit account of the organising bailiff, minus the registration fee of the participant of the competition. The law sets specific deadlines within which this amount must reach the bailiff. The more expensive the property, the longer the term, for example, the participant must pay the price of the property costing more than 30 thousand euros within

⁵² The connection to www.evarzytynes.lt is made via iPasas or through the electronic government gateway.



30 days from the end of the auction, and if the property cost up to 3 thousand euros, the price must be paid within ten days.

In the case that no bids are placed, or the participant who has won the auction was not entitled to participate or does not pay the total amount for the property purchased within the set terms, the auction is considered failed. The same applies in case of malfunctioning of the website.⁵³ The auction cannot be considered lawfully held according to the data of the electronic auction provided by the administrator of this website. Should this scenario occur, a second auction is organised. If the auction does not take place due to the absence of participants, the property may be transferred to the creditor for the initial sale price of the property. If the creditor refuses to seize the property transferred to him/her, fails to notify the bailiff within a specified period that he/she will take over the property, or fails to pay the difference between the initial price of the property sold and its share, the bailiff announces a second auction within a month. The latter takes place under the same rules governing the first one; the only difference is the starting price, which amounts to 60% of the initial evaluation in the second auction. If also the second auction does not take place, because of the same reasons already mentioned above, the property is eventually returned to the debtor and can be resold under the same enforcement documents at least one year after the return of the property. The exception only applies to mortgaged property that can be sold earlier.

The competition ends a) after thirty days, by selling real estate and other property registered in accordance with the procedure established by law, as well as other movable property the unit value of which exceeds thirty thousand euros from the auction; b) after twenty days for auction sales of assets different from those mentioned in the first bullet point.

Registers of assets

In the event of a successful auction, is automatically registered in the Real estate and Cadaster <https://www.registrucentras.lt/>, which is kept electronically

Information available on the e-Justice Portal

No information is available on the e-Justice Portal

⁵³ Codex 713 Article



Information on the e-CODEX access point

In Lithuania, there is no e-CODEX access point, but it is expected to be produced at the General Prosecutor's Office in criminal proceedings.

3.9. Portugal

According to the relevant Portuguese legislation, the sale of assets – both real estate and movable properties – resulting from enforcement or insolvency proceedings should be preferably carried out by electronic auctions. To that purpose, the www.e-leiloes.pt Platform must be used, following the operating rules approved by the Minister of Justice Order No. 12624/2015, published in Diário da República (Official State Gazette) – 2nd Series – No. 219 – November 9, 2015.

The online platform was created and is currently managed by the Solicitors and Enforcement Agents National Association. This is updated on a daily basis by all the profiles that have access to the platform: 1- Admin, 2 - Enforcement Agents, Insolvency administrators and courts, 3 – Clients.

Auction of seized asset procedure

Only information concerning e-auction has been provided.

Online auctions (movable and immovable properties)

In order to create an e-auction, it is first of all necessary to access the e-leiloes.pt platform and logging in as “Enforcement Agent”. The description form about the seized asset must be filled. The information provided must be submitted, and a registration fee must be paid. Within five days, the platform administrator (cp.ae@osae.pt) should have the request submitted, making it possible to schedule the auction.

According to the law, the value of the property to be sold is determined by the Enforcement Agent (or the entity that has powers to start the auction). In general, the value is set after consulting both the debtor and the creditor.

The auction announcement must include the description (with legal and material characteristics) of the asset, relevant documentation; pictures; a virtual tour in case of real estate (optional). All information is provided for registered and logged users and is only available in Portuguese. The auction must be online for at least 20 and up to 60 days. A final date and hour are usually established, but this actually only stops when the higher bid stands alone for more than 5 minutes.



Having a Portuguese tax number, all the interested persons can participate in the e-auction after registration on the platform. The user of the platform is responsible for the declarations provided. Bids registered on the platform cannot be withdrawn or modified.

After the auction is closed, the result is notified to the Enforcement Agent, who must take the necessary steps for the proposal to be considered accepted and the asset awarded to the bidder. This includes sending a notification to the winner so that he/she can deposit the amount due and demonstrate compliance with the tax obligations associated with the purchase.

If there are pre-emptive rights holders known in the process (e.g. tenant or co-owner of the property). The relatives of the debtor (spouse, ancestors, and descendants) are also holders of pre-emptive rights which can be exercised until the asset is awarded. They must be notified too, to allow them to exercise such rights before the end of the legal deadline.

The bidder who wins the auction must deposit the amount offered through the ATM network or by deposit (in cash or certified check/bank draft) at the enforcement agent bank counter within 15 (fifteen) days from notification for that effect. If the winner fails to comply with this duty, he/she can be held responsible for this fault. His/her assets can be seized covering an amount that is sufficient to guarantee the unpaid price together with costs and expenses and criminal proceeding.

Registers of assets

The enforcement agent makes the register of the seizure, and only then the auction can be submitted on the platform. After the end of the auction and the payment, the enforcement agent is responsible for the electronic or paper property registers that must be done. The platform does not operate any property register.

The documents where the property (and other information like mortgages) is registered are always submitted to the platform by the enforcement agent.

Information available on the e-Justice Portal

No information is available on the e-Justice Portal

Information on the e-CODEX access point

There is no e-CODEX access point.



4. Comparative analysis and remarks

4.1. The legal framework relative to online judicial auctions

Based on the questionnaire's replies, in the nine Member States analysed under this project, judicial auctions are governed mainly by rules provided for by the Civil Procedure Code (BL, CZ, IT, LV, LT) and enforcement law (AT, HR, LV, LT) together with some other complementing legal tool regulating the professions of bailiffs and judicial officers and the technical specifications to comply with when performing judicial sales online through dedicated websites (CZ, FR, IT, LV, PT).

In light of the findings gathered, in all the Member States surveyed judicial auctions can be conducted to perform the sale of movable and immovable properties.

The basic steps marking the procedure to have these items auctioned are similar, but significant differences have been detected as to the criteria based on which these properties are sold and the methods adopted to implement the above steps. For example, in some countries, different procedural rules apply depending on the type of asset involved.

Overall, e-auctions can be legally carried out in all the Member States under examination. In only one of the surveyed countries, e-auctions are not used yet in practice because the Information Technology infrastructure to support their deployment is still under development (BL). More specifically, in some States, the current legislation only provides for telematics sales to be performed (CZ); while in others, both traditional and online auctions can be used (AT, HR, FR, IT), depending on the type of item to be auctioned. Some States, for example, only allow the online sale of movable goods (AT, FR). In FR, where this mixed regime is into force, judicial e-auctions are partially computerised; these can only be conducted in "live mode", meaning that the sale takes place at a given physical location, while it is broadcasted live on the website of the professional/body performing the sale, or on one of the websites available to professional auctioneers.



4.2. e-Auction steps in practice

In each of the countries investigated, the main steps marking the e-auction process are pretty similar to those characterising the traditional system adopted at a national level.

By and large, the procedure is triggered by the creditor or his/her legal representative, who submits a request to have a judicial decision executed. The debtor's properties that are deemed suitable to cover the debt are then seized and evaluated. Bailiffs and other appointed professionals are usually entrusted with evaluation tasks, but the technical supports of authorised experts or licensed appraisers can be required, especially with respect to real estate or properties of higher value (for details see Table 1). After such an assessment has been conducted, the basic price of the item can be set by the bailiff or by court decision.

Notice of the auction must be available in advance of the auction starting date for a period that varies from State to State and can be given in different formats. Online advertising is generally required in all the countries investigated. This is usually made available on the auction site and on official registers/journals accessible to the public in electronic form. In some states, the notice has to be also given in the paper form in specific physical locations, e.g. the municipality, the competent court, or the judicial officer's office in charge (BL, FR).

Advertisement generally includes the description of the item to be auctioned and the details about the conduct of the sale. In the case of higher value items (e.g. real estate), in all the Member States surveyed the description provided is more detailed. Sometimes, a technical report is also attached (IT). Where pre-emptive rights can be used by individuals entitled to exercise them, this information must be made public in advance (CZ; PT).

In this respect, it is worth noting that most States provide special electronic registers containing information about all the seized properties, which are available free of charge to the public. However, they are usually maintained by different types of entities/authorities, are not interoperable with auction websites and do not provide structured data for publication. Moreover, in some cases, their use is not mandatory and therefore, they do not contain complete information on available auctions.

The auction can then start at the date and time indicated in the notice; in some cases, the initial payment of a fee is requested to the creditor.

For the interested bidders to participate in the auction, a registration fee and/or a security deposit can be required. The security deposit is always mandatory when it comes to real estate, while in most of the States surveyed, this is not necessary for movable properties or, more generally, for items of lesser value. Where applicable, such a deposit may amount to up to 10% of the basic price. Usually, this is returned to all the participants once the auction has



been closed; however, in AT, the deposits made by all participants are released after the winner has paid the proposed price for the property bought.

In order to be entitled to place a bid, some other preliminary actions have to be completed, and requirements met. First of all, where the auction is carried out online, the interested bidder is usually required to complete the registration profile on the website where the sale is performed. In most cases, this includes personal details confirming the identity of the bidder. Registration is not always automatic. As an example, in PT, this must be confirmed by the bailiff in charge of the sale. In IT, registration is conditional to the use of an electronic signature; in FR, the latter is not necessary, but the credit card number can be requested.

Once the auction has started, the sale's basic rules are almost the same in each of the domestic systems analysed. Property is sold to the participant offering the higher bid, and the item can be collected by or shipped at the risk of the winner after having completed the payment. The means of payment allowed - whether cash, bank transfer or other electronic means - vary from State to State.

In the case the payment is not completed within the deadline set or in case of auction failure, different scenarios can occur. For example, in some Member States, a second auction occurs, which can imply the winner paying additional costs (CZ). In LT, if the second sale fails too, the property can be returned to the debtor and sold under the same enforcement documents. In CZ, an "overbid" phase is foreseen. Within 15 days after the auction has closed and the results posted online, participants are allowed to offer a further bid, which must be at least 25% higher than the sales price reached during the auction. Overbids cannot be placed online; they can only be submitted before the bailiff.

In principle, almost nothing (from a legal viewpoint) prevents a foreign individual from participating in an auction conducted in a Member State other than residence/domicile and making a bid. However, based on the replies received, a general lack of information on available judicial auctions and their operation rules has been found in many of the systems investigated. Inadequate advertising on the available online channels reduces visibility, thus limiting access by interested individuals, both those residing or domiciled in the State where the auction is held and those living abroad. This problem is perceived more strongly in States lacking a centralised auction portal.



5. Mapping stakeholders to define needs-based functional and technical requirements

The main goal of this report is to identify the key project stakeholders (national authorities, professionals' workgroups/bodies, practitioners, investment funds, end-users, etc.) and mapping them to outline functional and technical requirements based on their individual needs.

With this objective in mind, a questionnaire has been submitted to national experts, with the aim of obtaining a more precise and comprehensive view of how judicial auction procedures are carried out in practice within the domestic systems under analysis and gain a better idea of those who are involved in this procedure in their various capacities.

5.1. Stakeholder clusters

Based on the information gathered, the range of possible stakeholders is broad and diverse. Together with creditors and debtors, who have an interest in ensuring that the auctioned property is advertised to the widest possible audience and that the pending debt is rapidly repaid, many other actors come into play in the perspective of developing an EU online search engine.

For example, policymakers have a duty to regulate judicial e-auctions and promote their use by facilitating and putting measures for enhancing the cross-border exchange of auctions' information and sales. Along with them, judges (or their delegates) are in charge of selling seized assets at judicial auctions, experts who estimate the value of seized assets and individuals or companies or competent authorities in charge of the sales operation. Also, legal practitioners handling cross-border e-delivery and exchange of documents and evidence can have an interest in the developments that this project will achieve, and so do research and academia representatives work on the field of e-procurement, e-auctions, e-justice, and their related aspects.

Specifically, the survey has allowed several stakeholders' clusters to be identified (details are provided in the Table 1).

National authorities having a general competence for public judicial auctions are one of them. This is a diverse group, comprising central authorities, such as Ministries of Justice (BL, CZ, HR, IT, LT), other national agencies such as National Chamber/Associations of Judicial Officers/bailiffs (BL, CZ, PT) or the Court Administration (LV) as well as local courts (AT, CZ).



This group also includes specific professional figures, as in the case of the commissaires de justice in France.

Together with these, other public entities are involved in carrying out specific steps or activities. As far as judicial auctions are concerned, the Financial Agency (FINA) in HR and the State Enterprise Centre of Registers in LT are both in charge of handling court auctions on online platforms; while, with regard to non-judicial public auctions, in BL, this task is entrusted to the Ministry of Regional Development and the General Financial Directorate.

In this respect, it is worth noting that the same tasks in some States are carried out (even on an exclusive basis) by private organisations. This is the case of authorised auction companies (AT) and auctioneers (FR) that can be mandated to carry out auctions online. Chambers of Private Bailiffs (BL) and telematic sales operators (IT) can be entrusted to handle court auctions on online platforms, and private companies are can also be authorised to advertise property auctions (IT).

Judicial officers involved in the auctions process represent another large and highly diversified cluster of stakeholders. This includes bailiffs - whether private or public - judicial officers, judges, enforcement agents, and insolvency administrators. Public notaries, trustees in bankruptcy are also part of the group, and so do a large pool of professionals acting as sales delegates (IT), which the judicial office authorises to publish sales announcements (they can be notaries, engineers, accountants, technical consultants).

Another large group of stakeholders is represented by the experts estimating the value of seized assets. Courts, enforcement agents and judicial officers often reach their conclusions about the value of the asset to be auctioned based on a reasoned finding and opinion of different types of professionals, such as authorised expert witnesses, independent appraisers, and property valuation experts.

Debtors, be they citizens, commercial entities, bankrupt business entities, also constituted in associations, are another critical interest group. The same applies to Creditors (whether banks, citizens, business entities and insurance companies), Final users and the associations representing their respective interests.

Finally, the authorities where e-CODEX access points have been designated are among the project's stakeholders. These are only present in some of the countries analysed, but it is expected that they will soon be appointed in those countries that have not yet fulfilled this requirement.



Table 1: Stakeholders' Map

| STAKEHOLDERS GROUPS | ORGANIZATION(S) | | | | | | | | |
|---|---|--|---|--|---|--|---|--|---|
| | AT | BL | CZ | FR | HR | IT | LT | LV | PT |
| Competent national authorities responsible for public judicial auctions | Courts and bailiffs (as member of the courts) | Chamber of Private Bailiffs Ministry of Justice (via the Inspectorate to the Minister of Justice) | National Chamber of Judicial Officers Ministry of Justice Courts | <i>Commissaires de justice</i> /Judicial Commissioners | Ministry of Justice and Public Administration | Ministry of Justice | Ministry of Justice | Court Administration of the Republic of Latvia | Solicitors and Enforcement Agents National Association |
| Private organizations involved in public judicial auctions | Beside judicial online auctions, courts may mandate auction companies, which themselves can do auctions online. | n/a | Enforcement agents/Judicial officers | Voluntary public auctions are carried out by authorized auctioneers working in specific companies approved by the French Sales Council | | Companies authorised to advertise property auctions https://www.giustizia.it/giustizia/it/mg_1_18.wp list of telematic sales operators https://gestorivendite telematiche.giustizia.it/4432/ | Chamber of Judicial officers of Lithuania | | Enforcement Agents, Insolvency Administrators, Courts |
| Public or private organisations in charge of the operating on-line judicial auctions platforms | German e-auctions platform | Chamber of Private Bailiffs Ministry of Justice (via the Inspectorate to the Minister of Justice) | National Chamber of Judicial Officers Enforcement agents/Judicial officers | Judicial auctions cannot be carried out completely online but there is possibility to broadcast the sales of movable property live | Financial agency (FINA) | Same as above | State Enterprise Centre of Registers https://www.registrucentras.lt/en/ | | Enforcement Agents |
| Public or private organisations in charge of the operating other on-line public non-judicial auction platforms | n/a | n/a | Ministry of Regional Development General Financial Directorate | Several online platforms available. Voluntary sales are carried out by authorized auctioneers working in specific | | Public Sales portal is not currently cooperating (it doesn't transmit any data) with platforms of non- | n/a | | n/a |



| | | | | | | | | | |
|---|---------------------------------|---|--|--|---|--|---|--|---|
| | | | | companies approved by the French Sales Council | | judicial auction operators | | | |
| Judicial officers involved in auctions (lawyers, notaries and other professionals) | Bailiffs, Judges, Court Experts | Private bailiffs State bailiffs at District Courts | 1/Enforcement agents/Judicial officers 2/Courts | Two formerly distinct but complementary professions : bailiffs and judicial auctioneers were entitled to carry out judicial public sales. Now these two professions have merged to create a new profession: the Judicial Commissioner. | municipal courts commercial courts public notaries trustees in bankruptcy | Subjects involved in auctions are sales delegates authorized by the judicial office to publish sales announcements (they have a specific role in the registry system used by the judicial office). They can be notaries, engineers, accountants, technical consultant | 114 independent Bailiffs offices represented by Chamber of Judicial officers of Lithuania | | Enforcement Agents, Insolvency Administrators, and courts |
| Experts estimating the value of seized assets | Court Experts | Chamber of Independent Appraisers in Bulgaria | 1/Enforcement agents/Judicial officers 2/Courts 3/ court experts | Judicial Commissioners (and experts) | The value of real estate is determined by discretionary court conclusion, based on a reasoned finding and opinion of an authorised expert witness or appraiser. | Experts in charge of estimating the value of the assets are professionals authorized by the judicial office. Currently are under development some new features in the auction system which will allow such experts to access the Sales portal. Each judicial office uses a district register to choose the experts. | Bailiff or property valuation experts | | Enforcement Agents |



| | | | | | | | | | |
|--|-----|---|---|--|--|--|---|--------------------------------|-----|
| Debtors (associations) | n/a | n/a | n/a | n/a | citizens, business entities, business entities in bankruptcy | Citizens (as assets' owners), companies in bankrupt status Citizen and legal persons (based on judicial procedures) | n/a | | n/a |
| Creditors (banks, associations, etc.) | n/a | n/a | Banking Association Insurance Association Chamber of Commerce | n/a | banks, citizens, business entities, national authorities | Banks, citizens, companies Citizen, legal persons (based on judicial procedures) | Lithuanian Banking Association (LBA) https://www.lba.lt/en/ | | n/a |
| Final users (associations, companies, investment funds, etc.) | n/a | n/a | n/a | n/a | banks, real estate agencies, citizens, business entities, etc. | Everybody, banks, real estate agencies, citizens, business entities, etc | All legal entities and individuals | | |
| e-CODEX access point | n/a | Supreme Judicial Council of the Republic of Bulgaria Prosecutor's Office of Republic of Bulgaria | Ministry of Justice | Yes, but not yet functional for auctions | Currently in the developing phase at the Ministry of Justice and Public Administration ⁵⁴ | Currently in the testing phase at the Ministry of Justice | No access point | Currently in the testing phase | n/a |
| Others | n/a | n/a | n/a | | | | | | n/a |

⁵⁴ As an operator of e-Auction service, FINA will not be able to use the access point of the Ministry of Justice and Public Administration of the Republic of Croatia, which is currently still being established within other projects



5.2. Existing barriers related to the development of an EU online search engine

Based on the national experts' opinions, one of the main existing barriers related to the development of an EU online search engine — from the national perspective — is information-related.

First of all, the national rules governing this matter vary widely from country to country, and for the individual living in a foreign State, access to this type of information is extremely complicated. The Justice Portal could fill this information gap, but at the moment the data entered by MSs is not even. As far as the countries surveyed are concerned, only a few States have provided full (FR, HR) or partial (IT, CZ) data about the national auction system. Information regarding PT, LT, LV, BL and AT are still lacking.

In addition to this, acquiring the necessary information is generally not easy for both domestic and foreign audiences. As mentioned above, most of the States surveyed provide special electronic registers containing relevant information about the properties to be auctioned, but they hardly provide structured and complete data for publication. Moreover, in some cases, their use is not mandatory.

Along with this, the language in which the information is made available is also an obstacle in most cases. Dedicated auction websites are often only available in the national language, making it harder for potential foreign bidders to participate in the auction process.

Issues were also raised regarding the registration of participants on the auctions' websites and the methods/procedures potential bidders have to comply with to prove their own identity. To participate in e-sales, interested persons need to register as users and prove their identity and legal status. This can imply providing a personal, national identity number issued in accordance with the procedure established by national law, indicating a national bank account code or domestic tax code. In some cases, electronic identification (e.g. electronic signature) issued according to national rules and procedures is required (IT).

Finally, in some cases, the terms of payment of the deposit are considered as a barrier to participation in the sale by individuals living abroad, where such an amount is required to be paid in person.



5.3. Next steps

The data obtained through this first phase of the research have certainly made it possible to clarify the range of possible stakeholders concerned by this project and identify some of the main obstacles that, in their opinion, may hinder the development of an EU online search engine. However, in the light of the results achieved, further activities are necessary to define better functional (e.g. about the nature of the asset, the aim of the judicial action; the location of the asset, the product profile, the basic price of the sale, the type of auction, the deposit and currency, the deadline to submit a bid, the date for judicial auction etc.) and technical requirements addressing their specific needs.

With this in mind, the first step is to submit an additional questionnaire to the national experts to explore some of the issues raised during the first phase of the survey.

In particular, it is considered necessary to ask the experts for further clarification on the number and different types of national actors that could be involved in the management and use of a single European portal for judicial electronic auctions. For example, it is worth obtaining more clarification about their role and the difficulties – whether both legal issues and possible operational obstacles - they might encounter on a day-to-day basis.

Together with this, it is considered useful to clarify whether, in countries where it is not possible to auction real estate online, such a hindrance is due to legal constraints and which ones.

With regard to the existence and maintenance of property registers, in the light of the information obtained, it is considered necessary to obtain more details about the number and type of registers already available at a national level, the actors in charge for entering the information, and if these registers are interoperable with e-auction portals.

Special attention should be also paid to the end-user (the bidder) – whether domestic or foreign – so as to obtain a more accurate picture of who they are (e.g. individuals, companies, banks, etc.), understand better what are the main problems they currently encounter when taking part in an auction (either online or by traditional methods), and make an effort to reflect on the problems they might encounter should they bid through a European portal for electronic judicial auctions.

As an example, experts could be called upon to reflect on the possible problems with the payment of the security deposit and the payment of the property.

After fine-tuning the research results in light of the new information gathered, a “feedback loop” activity will be carried out. As planned in the grant agreement, this will include stakeholder public discussion on functional and technical requirements addressing their



specific needs will be planned and closed discussions defining use case scenarios and implementation strategies at the national level. This will include using case scenarios as drivers to gather the stakeholders' specific needs more accurately and translate them into a comprehensive set of functional and technical specifications.

Building upon preliminary studies and Tasks 2.1 and 2.2 findings, closed discussions will also be held with the European Commission representatives about the integration with the EU e-Justice Portal.

Report including the results of the stakeholders "feedback loop" analysis gathering feedbacks and inputs on the provisional list of functional and technical requirements will be drafted. This document will also include a section on the details of the workshops' organization and implementation, as well as event management supporting documents (agenda; presentations of the speakers; signed attendance list and photos for on-site events, etc., whichever applicable).



Appendix 1. Questionnaire

Questionnaire

WP2 / T2.1

MAPPING STAKEHOLDERS

Reference framework for the data collection on the legal, organizational, and technological setting of judicial auctions at the national level

| | |
|--|--|
| Work Package n° / Task n° | WP2 / T2.1 — MAPPING STAKEHOLDERS |
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Introduction

According to the action requested by task T2.1, the following questionnaire is the general reference framework for the data collection on the legal, organizational, and technological setting of the judicial auctions at the national level, providing information to the preliminary analysis of functional and technical requirements. The present scope of LEILA is limited to a platform providing:

- A common search engine with possible list of information / search fields;
- An automatic system through which Member States can send information from their national systems or websites (based on a “pull mechanism” from the Portal to the Member State’s system);
- A manual system to insert information (uploading information) for MS without own systems, this questionnaire.

This system should be expandable to more modules supporting cross border e-auctions. Therefore, this questionnaire has a broader scope and aims to capture information in particular on the identification and engagement of a stakeholders’ community and data collection of their needs (mapping stakeholders) to identify:

- a) the legal framework relative to on-line judicial auctions;
- b) e-auctions steps in practice;
- c) the characteristics of existing electronic (and paper if not available) auctions related registers of assets;
- d) the characteristics of online national judicial e-auction systems (if available);
- e) an assessment of the information available on the e-Justice Portal in relation to judicial auctions; f) an opinion on existing barriers and opportunities related to the development of an EU online search engine from the national perspective.

This preliminary work will set the global perspective for the next task of identifying, analysing and defining the preliminary functional, technical and even security requirements (T2.2). These requirements will be validated by means of a “feedback loop” with partners and stakeholders’ (T2.3) — through participative workshops, semi-structured interviews, online questionnaire to the other Member States — to provide inputs for reviews and refinement of requirements for achieving the final list of them, as a definitive result of the activities (T2.4).

Before answering, it is necessary to select a national expert contact in charge to fill in the questionnaire and participate in the follow-up activities, including providing the contact names and details of experts to be invited to focus groups for eliciting functional and technical requirements.

National experts contacts

| | |
|-----------------------------------|--|
| Legal expert (name and email) | |
| Technical expert (name and email) | |



Questionnaire

Please, answer the following questions, and add at the end all information or comment you think helpful for the purpose.

Provide an overview of the judicial auctions' **main actors and stakeholders** by filing the table

| <i>Stakeholder groups</i> | <i>Organisation(s)</i> | <i>Contact(s) [name(s) and email(s)]</i> |
|--|------------------------|--|
| Competent national authorities responsible for public judicial auctions | | |
| Private organizations involved in public judicial auctions | | |
| Public or private organisations in charge of the operating on-line judicial auctions platforms | | |
| Public or private organisations in charge of the operating other on-line public non-judicial auction platforms | | |
| Judicial officers involved in auctions (lawyers, notaries and other professionals) | | |
| Experts estimating the value of seized assets | | |
| Debtors (associations) | | |
| Creditors (banks, associations, etc.) | | |
| Final users (associations, companies, investment funds, etc.) | | |
| e-CODEX access point | | |
| Others | | |



Describe the **legal framework** relative to judicial auctions in your Member State

- Legislation related to judicial sales, auctions, online registers, online judicial sales

- Specific rules concerning national judicial auctions procedures (main provisions, allocation of powers and competence for procedures, transparency requirements, any limitations and restrictions such as ownership of information, etc.)

- What information is provided to potential buyers? Is this information provided on-line? What languages Is this information provided in?

Describe the **auction of seized assets procedure** in practice (provide links to this information)

- Basic steps

- How the value (basic price) of the asset offered for sale is determined

- Procedure for the publication of seized asset



- Main conditions and requirements for participation in on-line e-auctions

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Describe the characteristic of **existing electronic** (and paper if not available) auctions related **registers of assets**

- Movable and immovable property registers

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- Procedures for keeping registers (es. electronically)

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- Means of accessing registers

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Describe the characteristics of **online national judicial e-auction systems** (if available)

- Online judicial e-auctions provided for in the Member State

| |
|--|
| If an online judicial sales platform is active . Who manages it? What information does it hold? How often is it updated? |
| |
| If an online judicial sales platform is not present . Are you planning to develop a national platform? What is the planned delivery? What information will provide? |
| |



- Advertising of judicial sales: information on procedures' and assets' availability also for citizens of other MS

- Signature of the participation application, e-signature

- Payments (deposit, purchase price, expenses etc.), e-payment

- Translation

- Barriers to access to auctions also for citizens of other MS

- Best practices

Provide an assessment of the **information available on the e-Justice Portal** in relation to judicial auctions (available information, competent uploading authority, quality of the information provided)



Provide your opinion on **existing barriers and opportunities** related to the development of a **EU online search engine** from your national perspective and what are your expectations from the development of the EU LEILA platform

| |
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Provide **information on the e-CODEX access point**

| |
|--|
| If your country has an e-CODEX access point . Are the access point sets up and in production? |
| |
| If your country has not an e-CODEX access point . Are there plans for setting up it within the lifetime of the project? |
| |