100934

MAPPING THE WAY THROUGH COURT PROCEDURES IN BULGARIA

July 2015

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

TABLE OF CONTENTS

ACKNOWLEDGEMENTS

This report identifies and maps procedural steps according to the law on the books and actual practice for two types of procedures in Bulgarian courts: the fast track claims procedure under Chapter 25 of Bulgarian Civil Procedure Code (hereinafter referred to as the CPC) with particular reference to labor claims; and the procedure for issuance of an enforcement order under Art. 410 of the CPC and under Art. 417 of the CPC. Work on the report was conducted in 2015.

The report was produced by Ms. Svetozara Petkova (World Bank Consultant) as part of a set of Just-in-Time outputs supervised by David Bernstein (Lead Public Sector Specialist) and Gregory Kisunko (Senior Public Sector Specialist). This work was funded by the World Bank's Bulgaria Country Office with the support of Mr. Antony Thompson, Bulgaria Country Manager.

The World Bank would like to thank Bulgarian Ministry of Justice (MOJ) officials, judges, attorneys and court staff consulted for this report for their guidance, cooperation, and availability. The World Bank would particularly like to acknowledge the support for this work from Justice Minister Hristo Ivanov, Deputy Justice Minister Petko Petkov and MOJ Head of Cabinet Nadejda Yordanova.

1. Preface

The aim of this report is to illustrate the steps court users take in order to protect their interests through procedures carried out by courts. The focus is on the difference between the procedure in the law and actual practice. In outlining these differences, the report shall identify procedural inefficiencies, bottlenecks and potential areas for improvement of the procedure. It shall also estimate the approximate costs of these procedures to the parties.

As per the methodology of the report, the first step was to prepare a de jure map of each procedure. The maps show all procedural steps, specifying the party responsible for carrying out the particular step, as well as the applicable timeline, if specified in the law. In this manner the maps provide the analytical basis for the report. They cover only the most straightforward development of the respective procedure and are therefore complemented by graphs, which illustrate in more detail (without being exhaustive) the possible paths of each procedure.

The second step was to conduct in-depth interviews with those who regularly participate in the respective types of proceedings, i.e., attorneys with considerable experience in such cases, judges and court staff responsible for service of documents. The primary purpose of the interviews was to assess how the procedures actually unfold, that is, to compare what happens in practice (the de facto procedure) with the procedures envisaged by law (the de jure procedure), and to identify problems that may occur and potentially undermine their efficiency and/or effectiveness.

It should be noted that, as regards the duration and costs of procedures, interviewees were not requested to provide exact statistical data on procedures they were involved in. Instead, they were asked to estimate the time each procedural step takes, the costs parties incur and to give their opinion as to the most important challenges arising in the course of the procedures.

Interviewees included legal professionals from Sofia, whose first-instance court has the largest caseload in the country, as well as from Plovdiv, Blagoevgrad and Ihtiman in order to reflect varying caseloads and regional diversity of court practice. Additionally, many of the interviewed attorneys had experience countrywide. Hence, one of the aims of the research was to assess regional differences in the functioning of the judicial system. If this kind of analysis is done in the future, for other types of procedures, the researcher recommends that interviews be conducted also with judges in Eastern and Northern Bulgaria in order to have wider national coverage.

2. Executive summary

1. **Labor Cases.** The examination of fast-track labor cases under Chapter 25 CPC indicates that generally there are no major differences between the procedural steps under the law and in practice. Perhaps the most serious deviation between the two occurs in cases where judges omit to prepare a preliminary report in labor cases or issue a formalistic one and rely on the first open court hearing to make a pronouncement on the evidence. This may lead to an increase in the number of hearings necessary to complete the case.

2. The other issues identified in respect of labor cases could not be captured by the comparison between the de jure and the de facto maps but were nevertheless important. Employers' representatives were concerned that in cases where a dismissal is found illegal, the two-week time period for returning to the job after receiving a notice of restoration to work might be abused. Specifically, employees can avoid service of the notice thus postponing their return to work while benefiting from social security payments. This issue is particularly serious at Sofia Regional Court (hereinafter SRC), which does not serve notices for restoration to work ex officio but leaves it to employees to collect them. Other problems include appeals of first-instance decisions in labor cases solely for the sake of updating the period of compensation for unemployment, which burdens the court system; delays due to expert evaluations; and the cumbersome process of proof ensuing from the Labor Code's provisions on selection in cases of dismissal. The report makes recommendations on ways to address these issues, which are summarized in Table 1 below.

3. **Enforcement Orders**. The examination of the procedures for issuing enforcement orders under Art. 410 and Art. 417 CPC indicate that even thought there are no deviations from the legally established procedural steps, there are notable differences in the practices of individual judges and courts. Thus, some judges check in advance whether they have territorial jurisdiction to examine requests for issuance of enforcement orders while others do not; some judges instruct claimants to remove errors and omissions to requests only in cases specified in the law and in the Supreme Court of Cassation's interpretative decision while others provide such instructions in a wider number of cases. Practices differ also with regard to the treatment of original documents in requests under Art. 417 and to the calculation of amounts due under reverse writs of execution.

4. Again, not all issues regarding enforcement orders could be captured in a comparison between the de jure and the de facto map. Amongst these issues are the problems in serving enforcement orders under Art. 410 CPC, the numerous and sometimes frivolous objections by debtors which may lead to an exponential increase in the cost of the procedure, as well as the questionable determination of the fees for the procedures in the respective tariffs, which appear not to be cost-based. Recommendations on ways to address these issues are summarized in Table 1 below.

5. **Sofia Regional Court**. The comparisons between the de facto and the de jure map of the two procedures demonstrate that the most serious deviations between law and practice relate to timelines. The most significant delays appear to occur in SRC where legally established timelines are frequently not complied with. Given the significance of this court, which handles approximately 30% of all cases in the country, the report

devotes a separate section to it. Amongst the reasons for delays in this court are the excessive caseload, the slow internal processes, problems with the space available in the court building, the information systems and access to information. Recommendations on ways to address these issues also are summarized in Table 1 below.

Table 1: Summary of key findings and recommendations

No	Key Finding	Recommendation
Fast-track Labor Cases		
1	Not all judges prepare a preliminary report.	Ensuring that a preliminary report is prepared on every occasion and that the report is not formalistic but comprehensive.
2	No timeline for scheduling subsequent hearings in labor cases.	Specifying the timeline for a subsequent court hearing for fast track proceedings, possibly through court practice or via future legislative amendments.
3	Employees may avoid service of notice of restoration to work (especially in Sofia) thus benefiting from continuation of social security payments at the expense of the employer.	Ensuring that notices of restoration to work are served ex officio to the employee, specifically in Sofia. Consider introduction of a deadline for returning to work following entry into force of court decision.
4	Sometime a second-instance case is initiated with the sole purpose of updating the time period of compensation for illegal dismissal.	If appeals for the sole reason of updating the time period of compensation are frequent, consider initiating legislative amendments that allow updating the period of unemployment without resorting to a second-instance court.
5	Expert evaluations may contribute to delays.	Work on fundamental reform of expert evaluations is necessary.
6	Provisions on selection of employees to dismiss in case of scaling down the enterprise contribute to a cumbersome process of proof. Labor Code is outdated.	Further research into application of provisions on selection. Consider drafting a new labor code.
Issuance of Enforcement Orders		
1	There are differing practices among claimants with regard to attaching proofs to the request under Art. 410 CPC.	--
2	There are differing court practices with regard to preliminary checks of territorial jurisdiction.	Have clear guidelines and uniform practices as to when to check territorial jurisdiction in advance. Monitor potential forum shopping.
3	There are differing court practices with regard to providing instructions to the claimant for fixing errors and omissions.	Further Interpretative Decisions may be necessary to ensure uniform application of the law.
4	There are differing practices with regard to requiring original documents for requests under Art. 417 CPC.	
5	There are differing practices with regard to determining the amounts under reverse writs of execution.	
6	Service of enforcement orders may be difficult. There is lack of trust by debtors that good faith attempts to serve have been made.	Introduce routine practice of describing circumstances of all three attempts to visit address, including time, etc. also, description of circumstances of sticking a note.

7	There may be a practice of frivolous objections against enforcement orders.	Improve use of court statistics to assess percentage of objections against number of issued enforcement orders. Revise objection forms to make sure the debtor understands the implications of objections.
8	Procedure is not cost based. Frivolous objections to enforcement orders, especially for small debts, may lead to exponential increase of costs later on.	Consider revision to court fees tariff to increase the difference in costs between the procedure for enforcement order and a subsequent civil claim (e.g. 1 - 3 %, instead of 2 - 2%). Thus, costs would more adequately reflect the effort of the court in each of the procedures. Consider revision to the tariff for minimum attorneys' fees to mirror the court fees ratio between the procedure for issuance of the enforcement order and the subsequent civil claim.
Sofia Regional Court		
1	Caseload of the court is excessive.	Reduce caseloads by appointing all judges already allotted to the court and limiting secondments of judges away from the court.
2	Internal processes appear are slower than elsewhere.	Inspectorate should address the issues at the court. If improvement is insufficient, a comprehensive project for improving work processes should be launched.
3	Different information systems used for different types of cases.	Information systems should be unified.
4	There have been difficulties related to the old building of the court and the move of the civil division to a new one.	Evaluate the extent of improvement within a year.
5	Service of process is slower than elsewhere in the country.	Improve work processes of service clerks of the court to match the work processes used by the Urgent Services Department.
6	Access to case information is difficult.	Improve access to information via website and within court premises.

3. Fast-track procedure for labor claims under Chapter 25 of CPC

6. The fast-track procedure under Chapter 25 of CPC provides for stricter timelines and other rules aimed at accelerating several types of claims, including certain labor claims, claims for vacating rented premises, some intellectual property and consumer protection claims, etc. Fast-track procedures have been given a special status by law because it is deemed that they need to be handled in a speedier manner than other civil cases, usually due to their social importance. This report shall examine the procedure under Chapter 25 with particular reference to labor claims.

7. In 2014, the fast-track procedure under Chapter 25 of CPC represented 2.3% of civil cases at regional courts in district towns and 3% of civil cases in other regional courts. Of all fast-track procedures under Chapter 25 of CPC countrywide, about 30% take place at Sofia Regional Court. Bulgarian court statistics do not gather disaggregated information so it is not possible to determine the percentage of fast-track cases that were labor disputes.

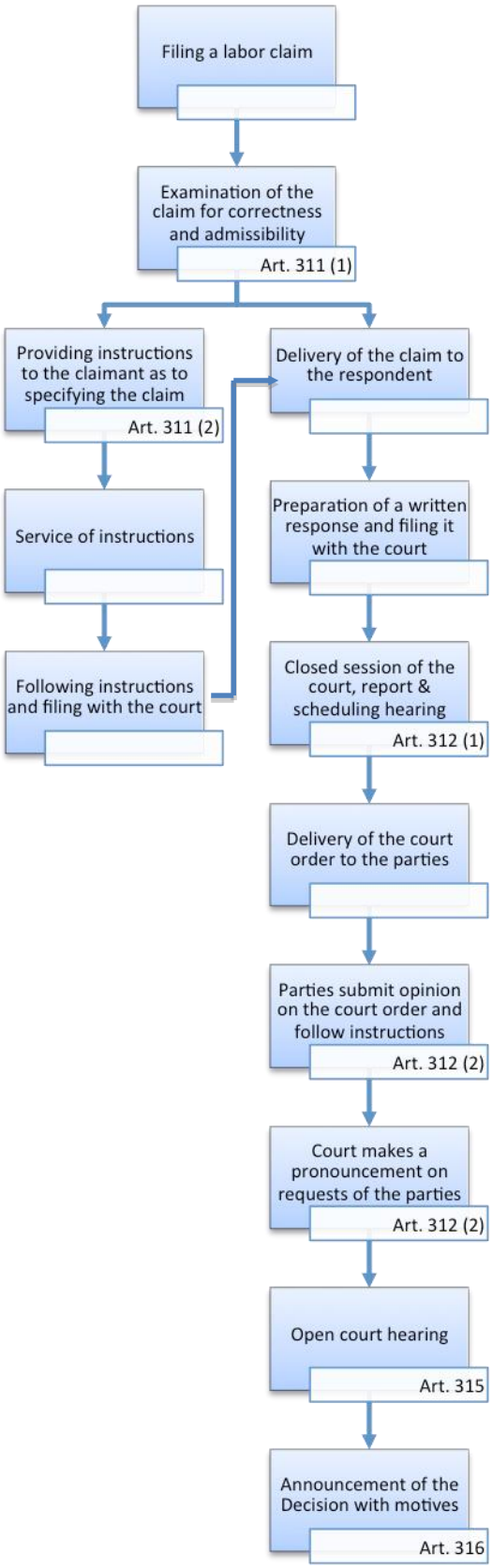
3.1. Short overview of the procedure

8. The fast-track procedure is applicable to labor claims for remuneration, illegal dismissal, restoration to the prior workplace, compensation for temporary unemployment and corrections to certain labor documents. Claimants in fast-track labor cases can only be persons who have/had the capacity of employees or workers (hereinafter referred to as employees).

9. The various possible procedural steps under Chapter 25 are illustrated in Graph 1. For the purposes of this short overview, only the most common route of the procedure is described. Details on specific issues that may arise and on deviations from the legally set timelines and procedural steps are discussed in subsequent sections.

10. Upon filing of a labor claim under Chapter 25 CPC, the court shall review it on the same day. If there are any omissions, it instructs the claimant to fix them within a week. If the claim is complete and clear, the court orders its service to the respondent who has 30 days to respond. On the day of filing the response or upon expiration of the timeline thereof, the court, in a closed session, prepares a detailed report on the case, admits evidence and schedules an open hearing within three weeks. The case is completed in one or more court hearings depending on the need to use experts, hear witnesses, request documents, etc. On the day of the last court hearing, the court indicates the precise date when the court decision shall be published. The timeline for appeal starts from this day unless the court is delayed in pronouncing the court decision.

Graph 1: Movement of a Labor Case under Chapter 25 of CPC



3.2. De jure/de facto map of fast track procedure with particular reference to labor claims

Table 1: De jure/de facto map of fast track procedure with particular reference to labor claims

No.	Procedural steps		Responsible party	Timeline		
	De jure	De facto		De jure	Approximate actual time	Approximate actual time in Sofia
1.	Filing a labor claim	--	Claimant (Employee)	Within 2 months from employee dismissal	--	--
2.	Examination of the claim in respect of its correctness and admissibility – Art. 311 (1)	Same as de jure Most omissions in claims are related to the proper determination of start date for requested compensation	Judge (Regional court)	On the same day when claim was filed	On the same day when claim was filed or within the next few days	A week or longer from the day when claim was filed
3.	Providing instructions to the claimant as to specifying the claim and removing contradictions – Art 311 (2)	--	Judge	On the same day when claim was filed	On the same day when claim was filed or within the next few days	At least a week from the day when claim was filed
4.	Service of court's instructions to the claimant	--	Court staff	--	Appr. 2 weeks	Appr. 1 month
5.	Preparation of a response to the instructions and filing it with the court	--	Claimant	Within a week from service	Same as de jure	Same as de jure
6.	Delivery of the claim to the respondent	--	Court staff	--	Appr. 2 weeks	Appr. 1 month
7.	Preparation of a written response to the claim and filing it with the court	--	Respondent	30 days	Same as de jure	Same as de jure
8.	At a closed session the court issues an order, which schedules a hearing, prepares a written report to the case, invites the parties to	In Sofia Regional Court not all judges prepare a report.	Judge	On the day of filing the response or the expiration of deadline	On the day of filing the response or the expiration of deadline thereof or	Timetable for issuing order usually not met

No.	Procedural steps		Responsible party	Timeline		
	De jure	De facto		De jure	Approximate actual time	Approximate actual time in Sofia
	settle (clarifying the benefits of various forms of settlement); admits evidence; sets the amount and deadline for payment of expenses for collection of evidence			for filing the response Open hearing shall be scheduled within 3 weeks from this closed session.	in the next few days	
9.	Delivery of the court order to the parties – Art 312 (2)	Delivery of the court order to the parties – Art 312 (2)	Court staff	--	Appr. 2 weeks	Appr. 1 month (the Urgent Services Department of Sofia regional Court can be used in this case
10.	Parties prepare an opinion on the court order and follow the instructions therein – Art 312 (2)	Parties prepare an opinion on the court order and follow the instructions therein – Art 312 (2)	Parties	1 week from delivery of court order	Same as de jure	Same as de jure
11.	The court makes a pronouncement on any requests of the parties – Art. 312 (3)	The court usually does not do this in advance as prescribed by law but in the open hearing.	Judge	On the day of filing the request	N/A	N/A
12.	Open court hearing: collection of evidence and pleadings; the court informs the parties of the day when decision will be announced. The timeline for appealing the decision starts from this day. More than one hearing may be necessary for labor claims, especially since	Labor cases are usually completed in 1-2 hearings outside of Sofia and in 2-3 hearings in Sofia. Depends on the case and on whether there has been a preliminary report on the case as per step 8 above. Usually the court allows the parties 3 – 10 days for the	Judge	First court hearing is within three weeks from the court order under step 8.	First court hearing scheduled 3 weeks – 1 month from the court order under step 8. Subsequent court hearings are scheduled within 1 month.	The 3-week period is usually not observed; first court hearing is scheduled within 1 – 2 months from the order under step 8. Subsequent court hearings are scheduled within longer time periods than in other

No.	Procedural steps		Responsible party	Timeline		
	De jure	De facto		De jure	Approximate actual time	Approximate actual time in Sofia
	witnesses are often heard. – Art. 315	submission of written notes after the last open hearing.				regional courts in the country.
13.	Announcement of the Decision with reasoning – Art. 316	--	Judge	Two weeks from the last court hearing on the case	--	Usually longer time period.

3.3. Comparison between the de jure and the de facto map of the procedure

3.3.1. Procedural steps

11. In terms of types and numbers of procedural steps, there are several main deviations of the de facto map of the procedure from the de jure map.

12. First, not all judges prepare a detailed preliminary report (as per procedural step 8 per Table 1 above) on the case in advance, as required under Article 312 (2) of CPC. It was difficult to determine based on the interviews how frequent that practice is but at least in Sofia, attorneys indicated that some judges use the first open hearing to make this report. This postpones collection of evidence and as a result, the case may have to be heard in a larger number of open court hearings. Interviews indicate that in courts outside of Sofia the preliminary report is prepared as per the law in closed hearing upon receipt of the response from the respondent.

13. Secondly, judges and court users report that the provision under Article 312 (3) of CPC requiring the court to make a pronouncement on parties' additional requests on the day of receiving them is rarely complied with. It is practically unrealistic, if there are by law a total of three weeks between the issuance of the first court order and the first court hearing, to have the time to serve the order to the parties, have them prepare a request, file it with the court and obtain a pronouncement on the request before the first hearing. Therefore, the court usually makes pronouncements on parties' additional requests during the first hearing.

14. The third, minor deviation from the procedure in the CPC is observed in terms of the last court hearing when, upon the request of the parties, the court usually grants them a short period of time (e.g. three to ten days) for the preparation of written notes. The timeline for issuance of the court decision is not extended by the time granted to parties for providing written notes but forms part thereof.[1]

[1] Even though Bulgarian legal theory (Jivko Stalev, Anelia Mingova, Ognyan Stamboliev, Valentina Popova, Ruzha Ivanova, *Bulgarian Civil Procedure Law*, Ciela Norma AD, Sofia 2012, pp. 762 – 763) does not consider that fast-track procedures are compatible with extra time for the preparation of written notes, in practice this may often be necessary as the parties would get acquainted with some of the evidence only at the last court hearing and may need time to comment on it.

3.3.2. Timelines

15. The more serious deviation of the de facto from the de jure map of the proceedings is in respect of timelines, particularly as regards Sofia Regional Court. Indeed, the timelines applicable to judges are indicative but still interviewees indicate that in Sofia deviations might be quite significant.

16. It appears from the interviews that in most courts in the country the court usually reviews the claim on the day of filing (as required by law) or within the next two days. In Sofia, this timeline is not observed. Moreover, it appears that in Sofia the administrative processing of the case, from the day of filing until the day it reaches the desk of the respective judge, is rather lengthy. Attorneys practicing in the capital city share that finding out what number the case has been assigned and which judge would hear it usually takes a week from filing the claim. The issues and possible causes of these apparent difficulties in the administrative processing of cases in Sofia Regional Court are discussed in a separate section of this report.

17. Judges in smaller regional courts are generally able to comply with the legal requirement of scheduling the first open court hearing within three weeks of the report on the case (procedural step No. 8, Table 1). For judges in larger regional courts, this period may be extended to a month. In Sofia this timeline may be up to two-three months.

18. It is difficult to assess the actual timelines for every single procedural step in the fast-track procedure. However, court users noted that the first court hearing in most towns is usually scheduled within two months of filing, whereas in Sofia, it is normally scheduled approximately five months from filing the claim. This time period factors in the time needed for service of the claim to the respondent, the one-month timeline for the preparation of the response to the claim and the time period between the judge's report on the case and the scheduling of the first hearing.

19. It appears that first-instance labor cases outside of Sofia are generally completed through one or two open court hearings. Court users report that in Sofia a case usually takes two or three hearings to complete. The most important factor influencing the number of hearings for solving a labor case appears to be the presence or absence of the preliminary report on the case as required by Art. 312 (1) point 2 CPC. Thus, judges from Sofia Regional Court who prepare such a report before the initial open hearing are also generally able to complete a case within one to two hearings. However, in those Sofia cases where the preliminary report is absent or is purely formal, an additional hearing may be necessary.

20. Usually, an additional hearing is scheduled due to the need to appoint various types of expert evaluations (e.g. an accounting evaluation), summon witnesses and collect written evidence. Unlike the first hearing, there is no legal timeline for scheduling a second hearing. Nevertheless, according to interviewed judges, if an additional hearing proves necessary, it is usually scheduled sooner than a hearing in a non-fast track civil case. The time period between two court hearings in a labor case in courts countrywide appears to be approximately one month, whereas, in Sofia Regional Court this period is usually longer, approximately 1.5 to 2 months.

Interviewees report that the total length of a first-instance labor case in Sofia is approximately six months to one year. In other Bulgarian towns, a labor case may be completed within two to four months.

21. The length of this particular procedure might have serious economic effects. First, it keeps the dismissed employee in a state of insecurity that may affect his/her decision on whether and when to start looking for a new job. Second, if the dismissal proves to be illegal, the employer owes the employee compensation in the amount of his/her monthly salary for each month after the dismissal within the first six months following the dismissal. So the longer the case takes, the greater the cost to the employer if it loses. Third, in case of an illegal dismissal, the employer owes the employee social security payments from the date of dismissal until the date of restoration to the previously held job, which in certain cases heard in Sofia might be a very long time-period.

3.4. Service

22. Unlike other types of procedures, labor claims usually do not pose serious difficulties in terms of service, not least because the respondents (employers) are usually businesses and also the employee is well aware of their current address. The service of the notice of restoration to work might pose certain difficulties in cases when the employee wishes to avoid or delay it. This scenario will be discussed in more detail below.

23. In Sofia Regional Court, fast-track procedures fall under the types of procedures for which judges may order quick service by the Urgent Services Department, if they establish that 10 days before a scheduled hearing the notice has not been served properly and there is a risk for a postponement of the case for this reason. Thus, the establishment of Urgent Services Department at Sofia Regional Court in 2011 may have led to a reduction in the number of labor cases postponed due to failed service in this court, assuming judges take sufficient advantage of this opportunity (this analysis was not able to ascertain how frequently judges use this option for service in labor cases).

3.5. Other issues (not related to discrepancies between the de jure and the de facto map of the procedure)

24. Many of the difficulties judges and parties encounter in labor cases are not related to deviations from the legally established procedure and therefore cannot be captured in the comparison between the de jure and de facto maps. Some of the more serious issues of this type are examined below.

3.5.1. Notice of restoration to work

25. One of the issues raised by interviewees in respect of labor claims relates to the provision of Art. 345 of the Labor Code. Specifically, if a labor claim results in a decision restoring the employee to his/her previous workplace, the court issues, in addition to the court decision, a “notice of restoration to work”. The employee is entitled to return to his/her previous job within two weeks of receiving that notice.

26. Interviewees share that this particular provision is sometimes abused. Specifically, employees restored to their previous position can avoid service of the notice thus postponing their return to work while at the same time benefiting from social security payments. This situation is more serious in the jurisdiction of Sofia Regional Court. Interviews indicate that unlike other courts in the country, Sofia Regional Court does not serve the notice for restoration to work to the employee but rather leaves it to him/her to go to the court and obtain it. This means that there might be a serious time gap between the moment the court decision on a labor case becomes final and the moment the employee returns to work. Currently, the employee has the opportunity to substantially prolong this time period to the detriment of the employer, especially in Sofia.

3.5.2. Provisions on selection under the Labor Code and court practice thereof

27. Other issues raised by interviewees relate to the provision of the Labor Code in respect of selection. According to judges and court users, the provision under Article 329 of the Labor Code perhaps contributes the most to a cumbersome and lengthy process of proof in a labor case. On its face, this provision gives employers the right, in case of scaling down the enterprise, to select to dismiss employees whose positions would not be abolished in order to keep employees who are better qualified or work better. Even though the provision is framed in the interest of the employer, according to an interpretative decision of the Supreme Court of Cassation[2], the evaluation of the employer as to who works better and is better qualified shall be subject to judicial control.

28. As a result, a labor dismissal case involves a complex evaluation of whether selection among employees should have been performed; the positions amongst which the employer should have performed selection; as well as whether selection had been properly carried out. This type of assessment includes an examination of the various types of positions at an enterprise, including positions that may have different job descriptions but share some common functions. This assessment needs to answer the rather vague question whether the dismissed employee works better and is better qualified than the employees whom the employer chose to keep. The evaluation involves numerous proofs and is one of the main causes for prolongation of labor cases. Many professionals interviewed for this report felt that judicial review of the employer's assessment of which employees to keep and which ones to dismiss represents unwarranted interference in the private sector.[3]

3.5.3. Determination of the time-period of compensation for illegal dismissal

29. According to Art. 225 (1) of the Labor Code, in case of illegal dismissal, the employee is entitled to compensation in the amount of his/her gross monthly remuneration for the time-period of unemployment but no more than six months. In Sofia, where a labor case usually lasts more than six months, an illegally dismissed employee is owed the full six-month payment from the employer. In other regions of

[2] Interpretative Decision No. 3/2012 of the Supreme Court of Cassation.

[3] The Labor Code, initially adopted in 1986 and amended on numerous occasions, frequently came under criticism. Many interviewees were of the opinion that the entire Code is outdated, not suited to a market economy and failing to adequately regulate more recent types of labor arrangements such as domestic assistants, small and middle-sized enterprises, house help, etc.

Bulgaria however, such court cases would indeed be fast-track and would typically last less than six months. As a result, the first-instance court decision in an illegal dismissal case obligates the employer to pay compensation to the employee (assuming the employee has not found new employment yet) from the date of dismissal until the date of finalizing the discovery process in the case (i.e. the last court hearing).

30. However, it is quite probable that by the time the decision is issued, the employee would not have found a new job. As a result, he/she has an incentive to appeal the decision and request an increase of the compensation due to new circumstances (i.e. the continued unemployment since the date of the last court hearing). Thus the labor case would go to a second-instance court, which would increase the compensation based on the actual time period of unemployment ensuing from the dismissal. This appeal for the sake of updating the period of unemployment burdens the court system, as well as the employer (who would have to bear also the expenses of the second-instance case, if the employee is successful).[4]

3.5.4. Court experts

31. Another reason for delays and other difficulties in labor cases, as well as in most civil litigation, is the role played by expert witnesses. Interviewed court users and judges note that the lists of expert witnesses in Bulgarian courts are extremely outdated. By law, they should be updated annually; however, updating is purely formal. As a result, some experts included in the lists may be deceased, retired or not sufficiently qualified. Therefore, if judges appoint a random expert from the list, they run the risk of this person being unavailable or unqualified, causing serious difficulties and delays in the process. To avoid this, judges tend to work repeatedly with those experts they already know. This practice, in turn, has two undesirable side effects: (1) it creates the perception of impropriety; and (2) the experts who are preferred by judges are very busy, attend numerous hearings and this may lead to difficulties in scheduling a case becoming another reason for postponement of a hearing.

32. There has long been understanding that the system for court experts needs fundamental reform. In 2012, MOJ attempted to replace Regulation No. 1/2008 on the Registration, Qualification and Remuneration of Court Experts with a new one. The replacement however, was repealed in 2014 by the Supreme Administrative Court due to violations in the procedure for its adoption. As a result, the old Regulation is still effective. Currently, MOJ is attempting to update the Regulation again. It has published on its website a draft that raises experts' remunerations and introduces stricter deadlines for their payment. An interesting feature of the draft Regulation is that it repeals the requirement for random selection of experts. Thus, MOJ legitimizes the current practice of judges repeatedly choosing the same set of experts. At the same time, MOJ has presented the draft Regulation as a temporary compromise with the need to re-think conceptually the system. Therefore, it invites stakeholders to join a working group, which would develop a new concept for a comprehensive reform of expert evaluations in courts and, in the future, a new draft regulation.

[4] Additionally, judges in courts outside of Sofia feel that this particular issue has the effect of punishing them for complying with the fast-track procedure because if the first-instance decision is revised, this affects negatively their performance evaluation regardless of the fact that the decision had been revised due to purely technical reasons.

3.6. Costs

33. No court fees are due for labor cases in Bulgaria. Attorney fees are set by negotiation whereas their minimum level is determined in a Tariff as illustrated in the table below. Employees would often be charged the minimum fee whereas employers may be charged any fee that they negotiate with their attorney. If however the employee loses the labor case, he/she would have to pay the expenses made by the other party, including the attorney fees. If the court considers this fee to be excessive, it may reduce it.

Table 2: Costs of a labor claim

Type of action	Court fee	Minimum attorney fee
First-instance labor case	No court fee is due	No less than the minimum montly wage, i.e. BGN 380
Second-instance labor case	No court fee is due	No less than BGN 300

3.7. Recommendations

34. To improve the processing of fast-track labor cases in Bulgaria, the following measures could be taken:

1) Preliminary report: Ensuring that a preliminary report is prepared on every occasion and that the report is not formalistic but comprehensive. This would help reduce the number of hearings necessary to complete a labor case. This recommendation is applicable to Sofia Regional Court in particular, as the other courts reviewed for this study generally appear to comply with this procedural step.
2) Scheduling hearings: Currently, the law provides for a timeline only for the scheduling of the first hearing on a labor case. It is advisable to specify a timeline for scheduling subsequent court hearings for fast track proceedings, possibly through court practice or via future legislative amendments.
3) Notice of restoration to work: Ensuring that notices of restoration to work are served ex officio to the employee if the dismissal is declared illegal, specifically in Sofia Regional Court. Consider the introduction of a timeline, from the moment the court decision enters into force, beyond which the time period for returning to work would commence and the accrual of social security benefits would cease regardless of whether notice of restoration has been served. The employee has initiated the case, so he/she should have legal interest in following its development, including the entry of the decision into force.
4) Time period of compensation for illegal dismissal: With regard to appeals of first-instance court decisions for the sole reason of updating the time-period of compensation, explore further, at the appellate level, how often this is the reason for appeal. If it is frequent, legislative amendments should be initiated that address the issue of how to update the period of unemployment without having to resort to a second-instance court.

5) Expert evaluations: The regulation on expert evaluations needs profound reform.
6) Labor Code provisions: With regard to the provisions of the Labor Code on selection in case of dismissal, further research may be needed into how they are applied and whether the interpretative decision answers all questions. The development of a new Labor Code that is appropriate to the economic reality of Bulgaria should be considered

4. Procedure for Issuance of Enforcement Order

35. The procedure for issuance of enforcement order aims at creating a possibility to quickly obtain a writ of execution whenever a debtor does not contest a claim. This procedure represents a significant share of the total number of civil cases in regional courts in Bulgaria. In 2014, such cases amounted to 52% of all civil cases at regional courts in district towns and 49 % of all civil cases in the other regional courts. Of all procedures for issuance of enforcement orders countrywide, about 30% take place at SRC (as well as 30% of all civil cases).[5]

36. The procedure is subdivided into two distinct types: (1) procedure for the issuance of enforcement order under Art 410 of CPC; and (2) procedure for issuance of enforcement order based on a document under Art. 417 of CPC. These two types of procedures shall be described separately below.

4.1. Short overview of the procedure under Art. 410 CPC

37. The procedure for issuance of enforcement order under Art. 410 of CPC allows for a facilitated path for obtaining a writ of execution whenever a debtor does not contest a claim. This procedure is applicable to claims for monetary takings or fungible goods that would be under the jurisdiction of regional courts (i.e. that have a value below BGN 25 000), as well as claims for transfer of movables that the debtor has obtained under an obligation to return or that have been pledged as collateral. This procedure is used on a mass scale by utility providers, quick credit firms, as well as many other classes of creditors. It is frequently used for relatively small claims.

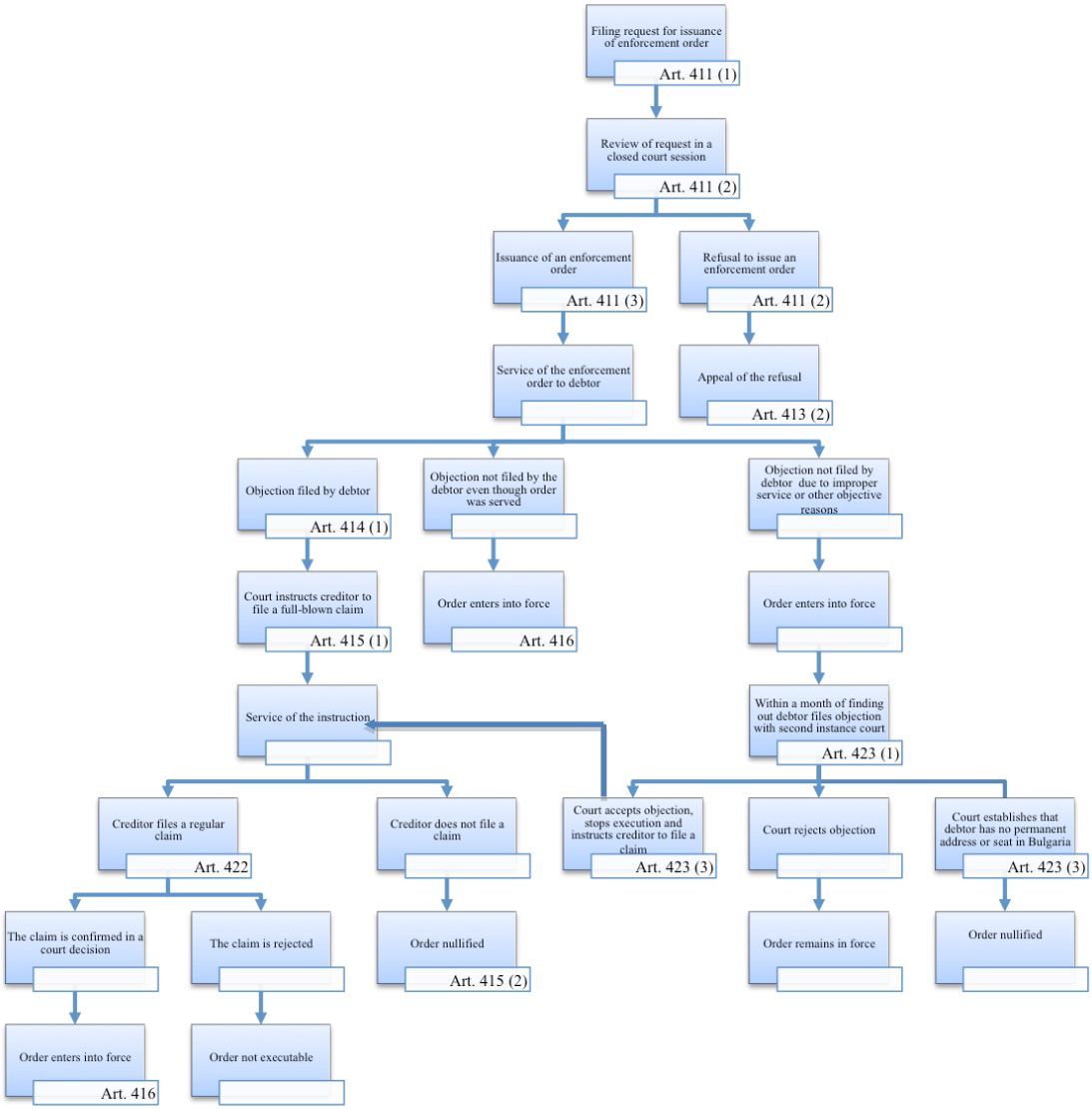
38. The implementation of this procedure can take many different routes. The principal ones are illustrated in Graph 2. For the purposes of this short overview, only the most common implementation path of the procedure is described. Details on issues that may arise and on deviations from the legally established procedural steps and timelines shall be discussed in subsequent subsections.

39. The procedure commences with a request by the creditor filed with the regional court. The content of the request is standardized as per a form approved by MOJ and used nationwide. Even though the form is simple and could be filled out by laymen, most claimants prefer to use the services of an attorney. This raises the cost of the procedure (initially for the creditor, and later on, upon successful enforcement, for the debtor).

[5] SJC official statistics for 2014.

40. Once a request for issuance of enforcement order is filed, the court should examine it within 3 days of filing in order to verify that it meets the formal requirements. If these are met, the court issues the order and it is served to the debtor. Upon service, the debtor has 2 weeks to file an objection. There is no need to provide any reasons or attach any proofs to the objection. If an objection is not filed, the enforcement order enters into force and a writ of execution is issued. If an objection is filed, the court gives the creditor one month to launch a full-blown court claim for ascertaining his claim. Not filing the claim within the deadline would lead to nullification of the order. On the other hand, if a claim is filed, the issued enforcement order would have to wait for the outcome of the case before entering into force.

Graph 2: Procedure under Art. 410 CPC



4.2. De jure/de facto map of procedure for issuance of an enforcement order under Art. 410 CPC

** The map comprises only the most straightforward application of the procedure. More variations are illustrated in Graph 2 above.*

Table 3: De jure/de facto map of procedure for issuance of enforcement order under Art. 410 CPC

No.	Procedural steps		Responsible party	Timeline		
	De jure	De facto		De jure	Approximate actual	Approximate actual in Sofia
1.	Filing request for issuance of enforcement order – Art. 411 (1)	Some claimants attach proofs to the request, others file only the request form. Most judges do not examine the proofs, as per the relevant Interpretative decision.	Creditor			
2.	Review of request in a closed court session - Art. 411 (2)	Some judges do a preliminary jurisdictional check before reviewing the request; others do not.	Judge (Regional Court)	Within 3 days of filing	Within a week of filing	Within 1-3 months of filing
3.	Issuance of an enforcement order – Art. 411 (3)	--	Judge	Within 3 days of filing	Within a week of filing	Within 1-3 months of filing
4.	Service of the enforcement order to debtor	--	Court staff		Appr. 1 month	Appr. 2 months
5.	Objection not filed by the debtor after enforcement order is served	--	Debtor	Two weeks from the service of the order	Two weeks of service of order	Two weeks of service of order
6.	Order enters into force	--		If debtor has not made objection within 2 weeks of service	--	--

4.3. Short overview of procedure under Art. 417 of the CPC

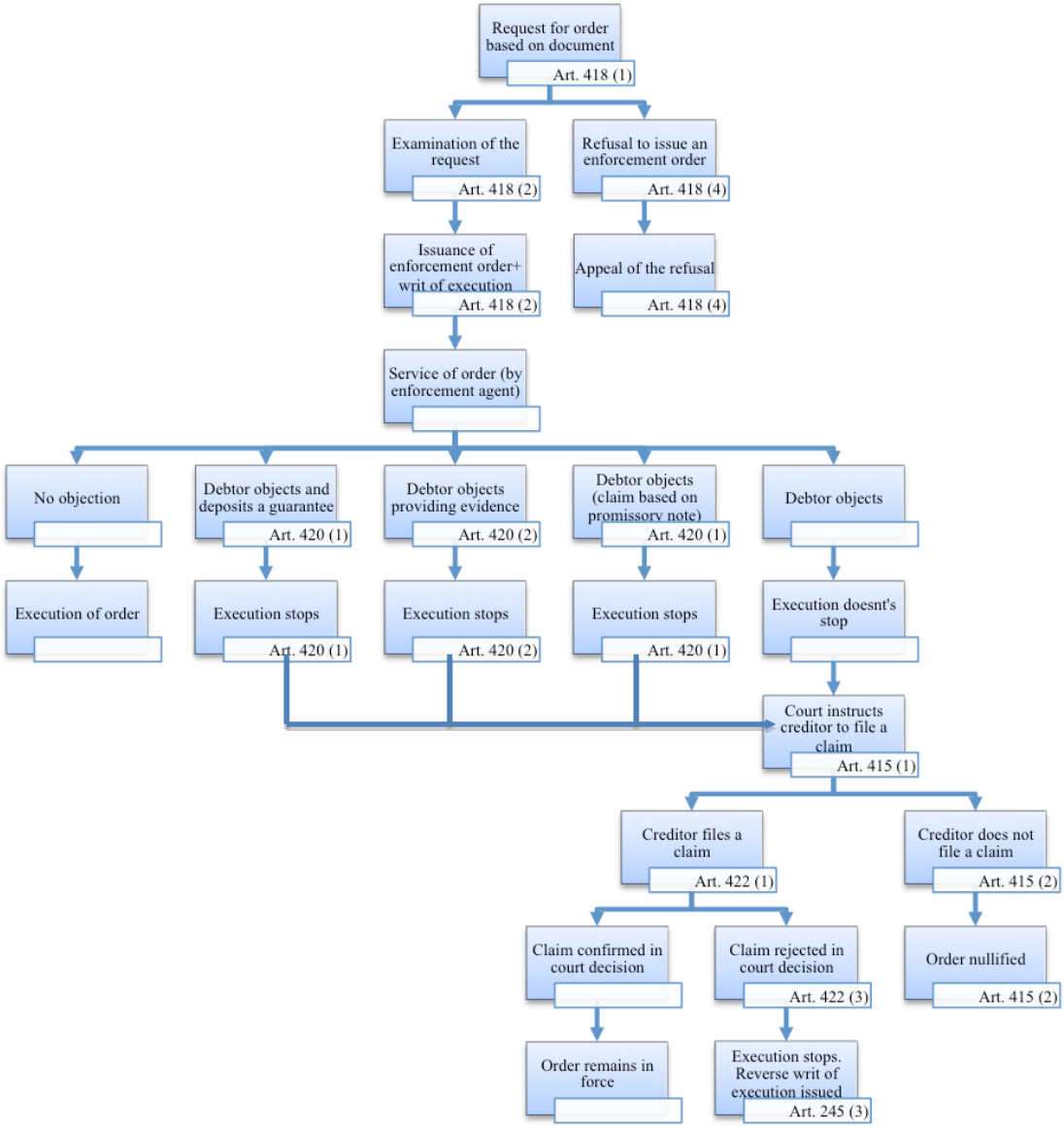
41. The procedure under Art. 417 of CPC allows the creditor, who can prove his claim with a certain type of document (notary deeds, bank documents, promissory notes, etc.) to file a request with the court, attaching the specific evidentiary document, and ask that the court issue an enforcement order and writ of execution allowing immediate

execution in respect of debtor's property. In this case there is no limit on the monetary amount of the enforcement order. Hence, very large sums (e.g. receivables under bank credits) can be collected in this manner.

42. Unlike the procedure for issuance of enforcement order under Art. 410, in the procedure under Art. 417 the debtor is informed about the order only when execution commences. If the debtor objects to the claim, this will not stop the execution unless the claim is based on a promissory note or the debtor provides monetary guarantee or convincing proof that the amount in question is not due. Regardless of the fact that objection in this case generally does not stop execution, if it is made by the debtor, the court would instruct the creditor to file a regular civil claim. If in the framework of that regular civil claim the debtor succeeds in proving that the amounts are not due, the court will issue a reverse writ of execution enabling the debtor to collect back from the creditor the amounts that have been taken from him/her in the course of the execution.

43. There is a heated debate in Bulgaria's legal system about this enforcement order procedure. It is often viewed as contradicting the European Convention of Human Rights. On the other hand, institutional creditors hail its efficacy. The conceptual debate on this provision falls outside the purpose and scope of this report, which shall examine solely the process for implementing the legal procedure.

Graph 3: Procedure for claims under Art. 417 CPC



4.4. De jure/de facto map of procedure for issuance of enforcement order under Art. 417 CPC

** The map comprises only the most straightforward application of the enforcement order procedure under Art. 417. More variations in application are illustrated in Graph 3 above.*

Table 4: De jure/de facto map of procedure for issuance of enforcement order under Art. 417 CPC

No.	Procedural steps		Responsible party	Timeline		
	De jure	De facto		De jure	Approximate actual	Approximate actual in Sofia
1.	Filing request for issuance of enforcement order based on a document together with a request for immediate execution and a writ of execution – Art. 418 (1) – immediate entry of the order into force	Some claimants attach originals to the request; others attach copies.	Creditor	--	--	--
2.	Examination of the attached document and issuance of an enforcement order and a writ of execution – Art. 418 (2)	Some judges do a preliminary jurisdictional check before reviewing the request; others do not.	Regional court judge	Within 3 days of filing	Within a week of filing	Within 1-3 months of filing
3.	Service of the enforcement order	--	Enforcement agent	--	Appr. 1 month	Appr. 1 month
4.	Appeal against the writ of execution and objection against the enforcement order, which does not stop execution	--	Debtor	Within 2 weeks of service	--	--
5.	If the debtor files an objection, the court instructs the creditor to file a regular civil claim	--	Court	--	--	--
6.	The creditor files a civil	--	Creditor	One month	--	--

	claim (an entirely separate procedure is initiated)			from court instruction thereof		
7.	Depending on the outcome of the civil claim, the enforcement order will remain in force (if amount was due) or a reverse writ of execution will be issued (if the amount was not due).	--	Court	No legal timeline. Should happen straight away.	--	--

4.5. Comparison between the de jure and the de facto map of the procedures under Art. 410 and Art. 417 CPC

4.5.1. Procedural steps

44. There are no major differences between the de jure and the de facto maps of the above procedures in terms of number and type of procedural steps. Nevertheless, there are certain distinct and diverse practices in the application of the procedures, which shall be described below.

4.5.1.1. Attaching documents to the request for issuance of enforcement order under Art. 410

45. Despite the standardized form for requesting enforcement order under Art. 410, there are discrepancies in claimants' practices. Some file only the completed form. Others attach all the supporting evidence to the request form. The latter practice, albeit very common, might represent an unnecessary effort on the part of claimants. Interviews with judges indicate that in deciding on the request, judges generally do not examine evidence, even if attached. This is in line with Interpretative Decision of the Supreme Court of Cassation No. 4/2014, point 2b, according to which the court may not derive information from the attached documents and all material circumstances should be indicated in the request itself. On the other hand, interviews indicate that judges in smaller courts with lesser caseload may examine evidence, if attached. Additionally, some lawyers note that they would be more inclined to advise their clients who are debtors to file an objection against an order, if upon reviewing the case they notice that no evidence has been attached.

4.5.1.2. Jurisdictional checks

46. According to the law, the permanent address or the seat of the debtor determines territorial jurisdiction in this procedure. Hence, when a request for issuance of enforcement order under Art. 410 or Art. 417 is filed, some judges have instructed their clerks to verify the permanent address of the debtor. Others judges do not make this preliminary check and issue an enforcement order based on the address specified in the request. Some courts have uniform practices in this respect (i.e. all judges in the

respective court either make or do not make a check) and in other courts the practice is up to the discretion of individual judges (i.e. some judges in the court make the check, others don't and yet others request the check only occasionally).

47. Additionally, the jurisdictional check is more cumbersome in courts with larger caseload (it is carried out by particular officials who have access to the civil registration database) and easier in courts with smaller caseload. In the courts where the check is cumbersome, performing it means that the judge may fail to make a pronouncement on the request within the 3-day timeline required by law.

48. According to Interpretative Decision No. 4/2014 of SCC, point 3a, in cases where the court does not check jurisdiction in advance and proceeds to issue enforcement order solely on the basis on the information stated in the request, the issued order would be valid and may not be nullified even if it turns out that the debtor has its seat or residence elsewhere. This provision of the Interpretative Decision, coupled with the fact that some courts/judges do not check the address of the debtor in advance, creates opportunities for forum shopping on the part of claimants.

49. Currently, there is an incentive for forum shopping predominantly for claimants whose cases fall within the territorial jurisdiction of Sofia Regional Court, which routinely takes several months longer than other courts to make its pronouncements on requests for issuance of enforcement orders. Interviews suggest that forum shopping is still limited; however, given that it was enabled by the Interpretative Decision in mid-2014, it could intensify, if significant differences in timelines for reviewing requests for enforcement orders remain between Sofia and the rest of Bulgaria. On one hand, forum shopping in this case has the somewhat positive effect of distributing caseload more evenly among regional courts. On the other hand, it is an undesirable practice as it represents a form of circumvention of the law.

4.5.1.3. Providing instructions to the claimant for corrections to the request under Art. 410

50. According to Interpretative Decision No. 4/2014 of SCC, the court should provide instructions to the claimant for correcting the request only if the claimant has not used the standardized form or in case a larger court fee is required. In all other cases of mistakes and omissions in the request, judges should refuse to issue an enforcement order. However, some judges feel that it is not acceptable to reject the request if the omission is minor and easily fixable and the claimant has paid a large court fee. Therefore, in some instances, judges may provide correction instructions despite the opinion of the Supreme Court of Cassation as stated in the Interpretative Decision.

4.5.1.4. Original documents under Art. 417 CPC

51. There are some divergent practices in cases where the claimant under Art. 417 CPC has not attached to the request the originals of the document that is the basis for which immediate enforcement is sought. It appears that in these cases most judges would issue the enforcement order stating therein that a writ of execution may only be obtained upon presentation of the original; however, other judges may refuse to issue the order or may instruct the creditor to provide the original document before proceeding to issuing the order.

4.5.1.5. Reverse writ of execution

52. In cases where the court has issued an order for immediate enforcement under Art. 417 CPC which is then rejected by a decision in a civil case under Art. 422, the court shall issue a reverse writ of execution enabling the debtor to restore the amounts already collected. There are some divergent practices in respect to the amount under that reverse writ of execution. It appears that most judges follow strictly the provision of Art. 245 (3) of CPC and issue the reverse writ only for the actual amounts collected from the debtor. On the other hand, other judges add to those amounts the interest from the time of collection of the funds until the time of returning them.

4.5.2. Timelines

53. The main deviations of the de facto from the de jure map arise in respect to the timelines within which judges perform individual procedural steps. Judges noted that they review requests for the issuance of enforcement orders under Art. 417 and Art. 410 in the same document track and generally pronouncements can be expected within the same time limits. At the same time, the review of requests under Art. 417 is generally more time-consuming for judges since they need to review the documentary basis for the claim in addition to the request. The result may be that pronouncements under Art. 417 CPC are issued a little later than pronouncements under Art. 410 but the differences between the timelines of the two procedures are not substantial.

54. The comparison between the de jure and de facto timelines of the procedures indicates that the deviations from the legally specified timeline in courts other than Sofia Regional Court are negligible. In Sofia Regional Court, however, these deviations are severe. For example, interviewees indicate that the pronouncement on the request for issuance of an enforcement order, which by law should happen within three days from filing the request, in Sofia takes on the average between one and three months. In some extreme examples, the delay may be up to 5 months. Also, in Sofia Regional Court there appear to be significant differences in the time period for the issuance of the order among individual judges. In other regional courts the same pronouncement takes approximately one week, or two-weeks if the court has a large caseload.

55. The main reason for the delay in processing enforcement orders in Sofia Regional Court is its extreme caseload. Currently 72 judges in this court work on enforcement orders. These judges do not deal solely with this type of cases but also with many other civil cases. In 2014, each of these judges had a monthly caseload of approximately 56 cases for issuance of enforcement orders. In terms of total caseload, in 2014, each judge at Sofia Regional Court had a monthly caseload of 124 cases whereas nationwide the average monthly caseload per judge for regional courts in district towns was 59 cases and the average caseload per judge in other regional courts was 33 cases.[6]

4.6. Service

56. There is no legal timeline for serving the enforcement order to the debtor. Therefore, technically, no discrepancies between de jure and de facto timelines in this respect can be identified. Also, service is usually not an issue under Art. 417 since it is done by

[6] SJC official statistics for 2014.

enforcement agents and not by court staff and, additionally, in the case of Art. 417 entry into force of the enforcement order is immediate and not dependent on service.

57. However, service of the enforcement order is by far the most serious delaying factor in the procedure under Art. 410 CPC. Service of the order under Art. 410 CPC is of crucial importance for the further development of this procedure because service sets into motion the two-week period for contesting the claim, upon the expiration of which the enforcement order would enter into force.

58. When attempting service, clerks should visit the address specified in the request for issuance of the order at least three times within a month. If service is unsuccessful, the documents are returned to the judge who should instruct the clerk how to proceed. In the procedure for issuance of enforcement order, it is usually at this point that judges ascertain the debtor's permanent address. If it differs from the address in the request, the judge instructs the service clerk to serve at the permanent address. If the two addresses coincide, or service to the permanent address has also proven unsuccessful, the judge instructs the service clerk to stick a notice on the debtor's door. In this case the order would enter into force one month after sticking the notice (comprising the two-week period during which the debtor could visit the court to obtain the document and the subsequent two-week period for filing an objection).

59. There are slight discrepancies in the manner in which judges organize service of documents, in the case where the address specified in the request differs from the permanent address of the debtor. As noted above, in cases where there has been no preliminary jurisdictional check, service is attempted to the address pointed out in the request and if it fails, the permanent address is obtained. However, in cases where the preliminary check is done from the very beginning, there are still discrepancies. If the check establishes a difference between the address in the request and the permanent address, some judges instruct service clerks to first attempt serving to the address in the request and later on, if that fails, to the permanent address. In contrast, other judges require service clerks to try serving to both addresses from the outset.

60. Both the practice of visiting the address three times to verify that the order cannot be served, and the practice of sticking a notice on the door of the debtor give rise to some controversy. With regard to the three visits to the debtor's address, some attorneys believe that there are no effective ways of ascertaining that these three visits have indeed been made by the service clerk. When reporting to the judge, the clerk usually specifies the dates of the visits, and, more rarely, the time and the particular circumstances of the visit. Sticking a notice on the door also gives rise to controversy as doors are not always accessible and, in addition, third persons could easily remove the notice before the debtor has had a chance to see it. On the other hand, especially in cases where the debtor tries to avoid service, these methods may be the only way to move forward.

61. It is difficult to estimate the average time periods for service of enforcement orders under Art. 410. Very roughly, in Sofia, where the procedure is the most problematic, interviewees report that service takes a minimum of two months, not least because many debtors deliberately try to avoid it. In other courts' regions, service takes up to a month with it being slightly slower in Varna, Plovdiv and in small villages, in which courts rely on mayors to perform service.

4.7. Other issues (not related to discrepancies between the de jure and the de facto map of the procedure)

62. Many interviewees were concerned about the frequent and at times frivolous objections against enforcement orders. It was difficult to ascertain what percentage of debtors object to the orders (with responses, based on interviewees' personal practice, ranging from 10% to 90% of debtors). Nevertheless when such objections are frivolous, they not only can burden the courts with a full-blown civil case later on but also can lead to an exponential increase in the costs of the procedures, which are first born by the creditor, and later, only upon successful execution, by the debtor.

4.8. Costs

63. Overall, the procedures for issuance of enforcement orders can be quite costly, especially when court fees, attorney's fees and subsequent enforcement agents' fees are factored in.[7] Annex 1 provides detailed information on the cost of the procedures per the respective regulations (the Tariff for attorneys' fees specifies what the minimum amounts should be but there is no obstacle for attorneys and clients to negotiate higher fees, which the debtor would have to pay upon enforcement). Annex 2 comprises specific examples of how these provisions would translate into the costs of claims with specific values. The table below illustrates the costs of the procedure for issuance of enforcement order and the subsequent execution for a claim of BGN 500.

Table 5: Costs of issuance of enforcement order and related enforcement (BGN 500)

Type of action	**Court/enforcement agent's fee**	**Attorney fee**	**Total for the respective phase**
Request for issuance of enforcement order for BGN 500	BGN 25 (fee due to court)	BGN 300	BGN 325
Filing a claim for ascertaining the receivable in case the debtor has objected	BGN 25 (fee due to court)	BGN 300	BGN 325
Initiating an enforcement procedure with a private enforcement agent	BGN 20 (fee due to private enforcement agent)	BGN 200	BGN 220
Collecting a monetary claim (private enforcement agent)*	BGN 90 (fee due to private enforcement agent)	BGN 150	BGN 240
Total			**BGN 1110**
*** If the debtor pays after the service of the invitation for voluntary performance and within the two-week period for voluntary performance, no private enforcement agent's fee shall be due on the paid amount (per amendments ot the Tarriff of Private Enforcement Agents, effective as of 1 August 2014).**			

[7] The costs are estimated under the assumption that creditors would choose to enforce using a private enforcement agent. Private enforcement agents started operating in Bulgaria based on the Private Enforcement Agents Act of 2005. They carry out all execution against debtors' property, including service of documents in the framework of the execution. An enforcement agent is engaged by the creditor once he/she obtains a writ of execution. The creditor can choose between private and state enforcement agents, whereas state enforcement agents' fees are lower. If execution is successful, all costs incurred by the creditor in relation to the execution are collected from the debtor.

64. As illustrated in the above table, if the procedure for issuance of enforcement order goes through all possible stages of its development, including objection of the debtor and subsequent civil claim to ascertain the receivable, the amount of the costs would increase exponentially and especially for small claims may well exceed the value of the claim. For example, for a claim with a value of BGN 500, the cumulative costs for all the stages of the procedure would be approximately BGN 1110 (that is, if the attorney has received the minimum remuneration per the Tariff), which is more than double the amount of the initial claim. On the other hand, if the debtor does not object and pays voluntarily at the point of receiving the invitation for voluntary performance, he/she would owe BGN 565 less in costs to the creditor, though the debtor would still owe more in fees (BGN 545) than the debt itself. This is a very telling illustration of the importance of avoiding frivolous objections by debtors.

65. One important feature of the court fees for the procedure for issuance of an enforcement order is that these fees are not cost-based. Specifically, the examination and the pronouncement on the request for issuance of an order under Art. 410 CPC, for example, may take an average of half an hour of a judge's time (since judges review only the standardized form) and a pronouncement under Art. 417 CPC perhaps double that time (because of the need to also review the attached documents). Additionally, the effort needed for both procedures does not depend on the value of the claim. Nevertheless, the court fee for both types of procedures is 2% of the value of the claim.

66. On the other hand, the cost of the procedure for issuance of enforcement order and the cost of the full-blown civil claim to ascertain the receivable in case of objection are the same (2% of the value of the claim each) even though the former procedure involves a desk review of the document(s) and drafting of the order whereas the latter entails one or more open court hearings and all other steps typical for a court trial and is thus much more burdensome to the court.

4.9. Recommendations

67. The mapping process identified numerous discrepancies in practice related to the procedure for issuance of enforcement order. While most interviewees welcomed the Interpretative Decision of the Supreme Court of Cassation that clarified many questions raised by this procedure, many believed that there are still questions that remain unanswered. The recommendations below will not address each and every one of the key findings above but only the ones that are significant or not adressed by the Interpretative Decision. However, it is important to keep in mind that future interpretative decisions might be necessary in order to introduce further uniformity in this procedure.

1) Jurisdictional checks: It is important to have clear guidelines at individual courts of when such checks should be done. Leaving such checks to the discretion of individual judges at the respective court could create perception of impropriety. At the same time, any practice of jurisdictional checks should take into account the time it takes to do the check at the individual court and whether it would affect the possibility to meet the legal timeline for pronouncement on the request for enforcement order. At courts where no such checks are performed, a mechanism could be introduced for tracking instances where jurisdiction was wrong and what had been the correct jurisdiction. If the mechanism

demonstrates that the court is used for forum shopping, then it may be helpful to introduce jurisdictional checks. Ideally, a nationwide uniform practice in this respect would be the most appropriate solution.

2) Service of enforcement orders under Art. 410: In order to better protect debtors' interests and to alleviate their doubts of impropriety of service, introduce a routine practice of describing circumstances of all three attempts to visit a debtor's address, including time, etc., as well as requiring a description of the circumstances surrounding the placing of a note at the debtor's address.
3) Frequency of objections: In order to develop a policy of addressing the issue of frivolous objections, it would be important to track statistically the approximate percentage of objections to enforcement orders. To do that, there needs to be a technological possibility for checking the number of cases under Art. 422 of CPC (the civil claim for ascertaining a receivable, which follows an objection) and under Art. 423 CPC (the civil claim for ascertaining a receivable, which follows a delayed objection before the second-instance court due to improper service). Comparing the number of such claims with the number of procedures under Art. 410 and 417 CPC (which form part of the official court statistics currently) would bring clarity with regard to the ratio of enforcement orders that are objected to annually, together with potential regional differences in that ratio. If the number of objections is significant, as interviews suggest, it would be necessary to work on discouraging frivolous objections. One way to achieve this would be to revise the standardized objections form, which is sent to the debtor ex officio together with the enforcement order. While it is commendable that the debtor is provided assistance in objecting to the order, it is also important that he/she understands the implications of an objection, especially in terms of costs. Introducing explanations of the consequences of objecting in the standardized form would be reasonable.
4) Costs: A revision to the court fees tariff could be considered to increase the difference in costs between the procedure for enforcement order and a subsequent civil claim (e.g., a 1 - 3 % fee differential rather than the existing 2% and 2% charges). If this is done, the costs may more adequately reflect the effort of the court in each of the procedures. Additionally, the lower fee for issuing the enforcement order would leave the debtor with less of a financial burden if he/she pays at the stage of issuance of an enforcement order without resorting to objection. This change also could serve to discourage frivolous objections. The tariff of minimum attorneys' fees could also be revised to mirror the court fees ratio between the procedure for issuance of the enforcement order and the subsequent civil claim by reflecting the spread of the effort between these two types of procedures and the nature of Art. 422 proceedings as a quasi-second phase of the procedure for issuance of an enforcement order.

5. Key findings and recommendations regarding Sofia Regional Court

68. The mapping of the above two court procedures in Bulgaria found that timelines in Sofia Regional Court are drastically different from timelines in other regional courts in Bulgaria. Therefore, this court warrants special attention, especially in light of the fact

that the Sofia Regional Court hears approximately 30% of all first-instance cases in Bulgaria.[8]

5.1. Key findings

69. There are numerous reasons for the dramatically different timelines in Sofia Regional Court as compared to the rest of the country. Some of these are:

1) Caseload: It has long been common knowledge that judges in this court have a caseload that drastically exceeds the caseload of other regional judges. Additionally, the court works with many fewer judges than approved judicial positions. Of the 171 approved positions for magistrates in Sofia Regional Court, 13 positions have not been filled yet and other 20 magistrates have been seconded to other courts.[9]
2) Internal processes: It appears that the slow movement of cases at Sofia Regional Court is related not only to the large caseload of judges but also to the movement of documents and processes within the court. The slow pace at which filed claims obtain a case number or at which enforcement orders under Art 410 CPC that have entered into force result in writs of execution, are only few of the examples that have led court users to believe that there is a significant delay in reporting by the court administration to the respective judge. It appears that this delay is not necessarily due to an insufficient number of court clerks since the ratio of court clerks / magistrates in this court is a little higher than the average for regional courts in district towns[10]. Therefore, it may be that the very scale of the court makes logistics more cumbersome than elsewhere.
3) Information systems: The court uses different systems for different types of cases, which creates difficulties, including with regard to processing information for the needs of the servicing department.
4) Building: For many years the court has been housed in a building that could not meet its needs in terms of courtrooms, judges' offices and administrative premises. In 2015, the Civil Division of the court was moved to a new building and the old building is currently used only by the Criminal Division, which is also expected to move to larger premises in the future. The move has provided sufficient space to the Civil Division but has created new, possibly temporary, difficulties ensuing from the process of transition and the fact that as a result of the move, the court functions in the two buildings while sharing a single administration.
5) Service of process: Service of process in the jurisdiction of the Sofia Regional Court is slower than elsewhere in the country. These problems are largely due to the volume of work. According to the administration of the court, its 95 service clerks perform approximately 630 000 services per year. In an attempt to optimize this activity, in the beginning of 2011, the court established an Urgent Services Department. Currently 15 clerks (out of the 95 total) work in that department and carry out service of process to entities with numerous cases in the courts (e.g. banks and utility companies), as well as service which has

[8] SJC official statistics for 2014 published at the SJC website.
[9] SJC official statistic for 2014; SJC registry on seconded judges.
[10] SJC official statistics for 2014.

been marked by judges as "urgent"[11]. In 2014, the Urgent Services Department was responsible for serving a total of 346 061 notices of which 3690 were "Urgent" and the rest were served to the so-called "large requestors". The fact that 15 persons have been able to serve approximately 50% of the notices in the court, leaving the remaining 80 service clerks to carry out service of the other 50% (approximately. 3500 services per year per service clerk) indicates that the specialization introduced through the creation of this department may have led to efficiencies. On the other hand, the 80 service clerks who are not within the Urgent Services Department could perhaps deal better with the remaining approximately 50% of services. By way of comparison, the Regional Court in Blagoevgrad reports that its 3 service clerks serve approximately 36 000 notices per year (approximately 12000 services per service clerk). There was no opportunity to explore in more detail the ratio between the number of service clerks and the number of services per year in other Bulgarian courts but the comparison above suggests that difficulties in service in Sofia may be due not only or not mainly to insufficient staff numbers.

6) Access to information: Court users overwhelmingly agree that access to information on cases in Sofia Regional Court is difficult and usually requires a personal visit to the court. The court has continuously worked to improve its website and provide easier access to information but is still perceived as lagging behind many other courts in the country in this respect.

5.2. Recommendations

70. To address the above issues that are specific for Sofia Regional Court, special attention should be given to this court by taking the following measures:

1) The caseload of the judges in the court should be brought down to as close to the national average as possible by making sure that the number of judges actually working at the court corresponds to the number of approved positions. This issue should be addressed by both holding competitions for the appointment of new judges and limiting the practice of removing judges from this court through judicial secondments (as proposed by the draft amendments to the Judicial System Act prepared by MOJ).
2) Improve work processes of service clerks of the court to match work processes used by the Urgent Services Department.
3) Improve information available via the website of the court and the conditions for viewing documents and requesting information at the courthouses.
4) The Inspectorate at the Supreme Judicial Council should play a key role in improving the overall work processes at Sofia Regional Court. According to interviews, an inspection of the Court was completed recently and the results should be announced in due course. Hopefully, this report will comprise recommendations for improving work processes. Given the special circumstances under which the Court has operated in recent years (insufficient space and, later on, moving to new premises), it would be important to carry out a subsequent check in a year's time. If within a year from the move to new premises, the timelines at the Sofia Regional Court are not the same as, or very

[11] An example of urgent service are cases where a fast-track procedure is scheduled and 10-days before the court hearing the judge finds that service has been irregular, which usually leads to postponement of the hearing.

close to, national averages (up till now the Court had good reasons for some of the inefficiencies), it would be important to launch a comprehensive project to examine internal work processes at this Court and prepare and implement a detailed action plan to improve internal functioning and user experience.

ANNEX 1: Costs of procedure for issuance of enforcement order and subsequent execution over debtor's property as per relevant regulations

Table 6: Costs of procedure for issuance of enforcement order and related execution

Type of action	Court/enforcement agent's fee	Attorney fee
Request for issuance of enforcement order (filed with the court)	Court fee of 2% of the value of the claim (but no less than BGN 25)	Fee is determined in the following manner based on 50% of the total claim value: • Claim value up to BGN 1000 (BGN 300) • Claim value BGN 1000 – 5000 (BGN 300 + 7% for amount exceeding BGN 1000) • Claim value BGN 5000 – 10 000 (BGN 580 + 5% for amount exceeding BGN 5000) • Claim value exceeding BGN 10 000 (BGN 830 + 3% for amount exceeding BGN 10 000)
Filing a claim for ascertaining the receivable in case the debtor has objected (filed with the court)	Court fee of 2% of the value of the claim	• Claim value up to BGN 1000 (BGN 300) • Claim value BGN 1000 – 5000 (BGN 300 + 7% for amount exceeding BGN 1000) • Claim value BGN 5000 – 10 000 (BGN 580 + 5% for amount exceeding BGN 5000) • Claim value exceeding BGN 10 000 (BGN 830 + 3% for amount exceeding BGN 10 000)
Initiating an enforcement procedure with a private enforcement agent	BGN 20	BGN 200
Collection of a monetary claim by a private enforcement agent*	Private enforcement agent fees: • Claim value up to BGN 100 (BGN 10) • Claim value BGN 100 – 1000 (BGN 10 + 10% for amount exceeding BGN 100) • Claim value 1000 – 10 000 (BGN 100 + 8% for amount exceeding BGN 1000) • Claim value 10 000 – 50 000 (BGN 820 + 6% for amount exceeding BGN 10 000) • Claim value 50 000 – 100 000 (BGN 3220 + 4% for amount exceeding BGN 50 000)	Fee is determined as 50% of the amounts below: • Claim value up to BGN 1000 (BGN 300) • Claim value BGN 1000 – 5000 (BGN 300 + 7% for amount exceeding BGN 1000) • Claim value BGN 5000 – 10 000 (BGN 580 + 5% for amount exceeding BGN 5000) • Claim value exceeding BGN 10 000 (BGN 830 + 3% for amount exceeding BGN 10 000)

	• Claim value exceeding 100 000 (BGN 5220 + 2% for amount exceeding BGN 100 000)	
*** If the debtor pays after the service of the invitation for voluntary performance and within the two-week period for voluntary performance, no private enforcement agent's fee shall be due on the paid amount (per amendments ot the Tarriff of Private Enforcement Agents, effective as of 1 August 2014).**		

ANNEX 2: Costs of procedure for issuance of enforcement order and subsequent execution over debtor's property for claims with a value of BGN 4000, BGN 20000 and BGN 60000

Table 7: Costs of issuance of enforcement order and related enforcement (BGN 4000)

Type of action	Court/enforcement agent's fee	Attorney fee	Total for the respective phase
Request for issuance of enforcement order for BGN 4000	BGN 80	BGN 370	BGN 450
Filing a claim for ascertaining the receivable in case the debtor has objected	BGN 80	BGN 510	BGN 590
Initiating an enforcement procedure with a private enforcement agent	BGN 20	BGN 200	BGN 220
Collecting a monetary claim (private enforcement agent)	BGN 340	BGN 255	BGN 595
Total			**BGN 1855**

Table 8: Costs of issuance of enforcement order and related enforcement (BGN 20000)

Type of action	Court/enforcement agent's fee	Attorney fee	Total for the respective phase
Request for issuance of enforcement order for BGN 20 000	BGN 400	BGN 830	BGN 1230
Filing a claim for ascertaining the receivable in case the debtor has objected	BGN 400	BGN 1130	BGN 1530
Initiating an enforcement procedure with a private enforcement agent	BGN 20	BGN 200	BGN 220
Collecting a monetary claim (private enforcement agent)	BGN 1420	BGN 565	BGN 1985
Total:			**BGN 4965**

Table 9: Costs of issuance of enforcement order & related enforcement (BGN 60000)

Type of action **(BGN 60,000)**	**Court/enforcement agent's fee**	**Attorney fee**	**Total for the respective phase**
Request for issuance of enforcement order for BGN 60 000	BGN 1200	BGN 1430	BGN 2630
Filing a claim for ascertaining the receivable in case the debtor has objected	BGN 1200	BGN 2330	BGN 3530
Initiating an enforcement procedure with a private enforcement agent	BGN 20	BGN 200	BGN 220
Collecting a monetary claim (private enforcement agent)	BGN 3620	BGN 1165	BGN 4785
Total:			**BGN 11165**