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DIFFERENCES AND SIMILARITIES BETWEEN SECURITY MEASURES
IN JUDICIAL AND TAX ENFORCEMENT PROCEEDINGS

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Abstract: The security measure is a long-established legal instrument, which has a special place in the institutional system of enforcement proceedings. In particular, it is a restrictive measure, which can be used and applied in advance, in order to protect the interests of the obligee, to ensure the fulfilment of the obligation in question before the classical enforcement for satisfaction, and to conduct the proceedings as efficiently, uniformly and effectively as possible. The security measure restricts the property in the debtor's (taxpayer's) disposal to facilitate the satisfaction of a claim, but since the right to property is a constitutional fundamental right, it cannot be restricted unfoundedly, the law limits the possibility of ordering the legal institution to strict, conjunctive conditions.

The legal institution of security measure is enforcement's own, regarding to that, it can be found in judicial and tax enforcement proceedings as well. Situations may arise where there are reasonable grounds to believe that the debtor (taxpayer) would, through bad faith or other transactions, withdraw his assets from his disposal, in order to prevent judicial or tax enforcement proceedings. The court ordering enforcement or the state tax authority may then use the legal instrument of security measure to limit the debtor's (taxpayer's) assets and thus ensure the fulfilment of the claim, by preventing the debtor's (taxpayer's) questionable behaviour before enforcement of satisfaction.



This study examines the legal institution of security measures available in judicial enforcement and tax enforcement, examining and presenting these two areas of enforcement in detail using a comparative analytical method, highlighting the specificities and differences of them.

Keywords: security measure, judicial enforcement, tax enforcement, temporary security measure, enforcement law

Különbségek és hasonlóságok a bírósági, valamint az adóvégrehajtási eljárásokban igénybe vehető biztosítási intézkedések között

Absztrakt: A biztosítási intézkedés hosszú múltra visszatekintő jogintézmény, amely különleges helyet foglal el végrehajtási eljárás intézményrendszerében. Soron kívül, előzetesen igénybevehető és alkalmazható, korlátozó jellegű intézkedésről beszélünk, amelynek lényege a jogosulti érdekek védelmében, a szóban forgó kötelezettség klasszikus, kielégítési végrehajtást megelőző teljesítésében, valamint az eljárások minél hatékonyabb, egységesebb, eredményesebb lefolytatásában ragadható meg. A biztosítási intézkedés az adós (adózó) rendelkezése alatt álló vagyontömegét vonja korlátozás alá abból a célból, hogy elősegítse a követelés megtérülését, azonban, mivel a tulajdonjog, mint alkotmányos alapjog korlátozására nem kerülhet sor megalapozatlanul, a törvény szigorú, konjunktív feltételek közé szorítja a jogintézmény elrendelésének lehetőségét.

A biztosítási intézkedés jogintézménye a végrehajtási jog sajátja, ennek megfelelően egyaránt megtalálható mind a bírósági, mind az adóhatósági végrehajtásban. Adódhatnak olyan helyzetek, amikor alapos okkal feltételezhető, hogy az adós (adózó) rosszhiszemű magatartása, vagy egyéb ügyletei révén kivonná vagyontömegét a rendelkezése alól, hogy ezáltal megakadályozza a bírósági vagy adóhatósági végrehajtási eljárás lefolytatását. A végrehajtást elrendelő bíróság, illetve az állami adóhatóság ekkor veheti igénybe a biztosítási intézkedés jogintézményét, hogy az adós (adózó) fedezetelvonó magatartásának gátat szabva, még a kielégítési végrehajtást megelőzően korlátozza az adós (adózó) vagyonát és ily módon gondoskodjon a követelés megtérüléséről.

Jelen tanulmány a bírósági végrehajtásban és az adóhatósági végrehajtásban igénybe vehető biztosítási intézkedések jogintézményét veszi górcső alá, összehasonlító elemző módszer segítségével részletekbe menően vizsgálva és

bemutatva a végrehajtás e két területét, kiemelve a jogintézmények sajátosságait és eltéréseit.

Kulcsszavak: biztosítási intézkedés, bírósági végrehajtás, adóhatósági végrehajtás, ideiglenes biztosítási intézkedés, végrehajtási jog

Unterschiede und Gemeinsamkeiten von Sicherungsmaßnahmen im gerichtlichen und steuerlichen Vollstreckungsverfahren

Abstrakt: Die Sicherungsmaßnahme ist ein Rechtsinstitut mit langer Geschichte, das im institutionellen System des Zwangsvollstreckungsverfahrens eine besondere Stellung einnimmt. Konkret handelt es sich um eine bereits im Vorfeld einsetzbare und anwendbare restriktive Maßnahme, deren Wesen im Schutz der Interessen des Rechteinhabers, in der klassischen Erfüllung der betreffenden Verpflichtung vor der Durchsetzung der Befriedigung sowie in einer möglichst effizienten, einheitlichen und effektiven Durchführung der Verfahren liegt. Durch die Sicherungsmaßnahme wird die Verfügungsgewalt des Schuldners (Steuerpflichtigen) eingeschränkt, um die Eintreibung der Forderung zu erleichtern. Da das Eigentumsrecht als verfassungsmäßiges Grundrecht jedoch nicht ohne Rechtfertigung eingeschränkt werden kann, stellt das Gesetz strenge, konjunktivische Voraussetzungen an die Möglichkeit der Anordnung des Rechtsinstituts.

Das Rechtsinstitut der Sicherungsmaßnahme ist ein Spezifikum des Zwangsvollstreckungsrechts und findet sich dementsprechend sowohl in der gerichtlichen als auch in der finanzbehördlichen Zwangsvollstreckung wieder. Es kann Situationen geben, in denen ein begründeter Verdacht besteht, dass der Schuldner (Steuerzahler) durch arglistiges Verhalten oder andere Transaktionen sein Vermögen seiner Verfügung entziehen und dadurch die Durchführung des Zwangsvollstreckungsverfahrens durch das Gericht oder die Steuerbehörde verhindern würde. Das Vollstreckungsgericht oder das Nationale Finanz- und Zollamt können dann das Rechtsinstitut der Sicherungsmaßnahme nutzen, um das Vermögen des Schuldners (Steuerpflichtigen) vor der Befriedigungsvollstreckung zu beschränken und so ein Sicherungsverweigerungsverhalten des Schuldners (Steuerpflichtigen) zu unterbinden und die Beitreibung der Forderung sicherzustellen.

Die vorliegende Studie untersucht das Rechtsinstitut der Sicherungsmaßnahmen in der gerichtlichen Zwangsvollstreckung und der finanzbehördlichen Zwangsvollstreckung. Dabei werden diese beiden Bereiche der Zwangsvollstreckung anhand einer vergleichenden Analyse­methode detailliert untersucht und dargestellt, wobei die Besonderheiten und Unterschiede der Rechtsinstitute hervorgehoben werden.

Schlagnvorte: Sicherungsmaßnahme, gerichtliche Zwangsvollstreckung, Zwangsvollstreckung durch die Finanzbehörde, einstweilige Sicherungsmaßnahme, Zwangsvollstreckungsrecht

1. Basic concepts

My research is based on the assumption, that security measures applicable in judicial enforcement and tax enforcement appear very similar at first glance, however their characteristics, roles and functions in the given form of enforcement are nevertheless different. In this study, I intend to present these two legal institutions following this line of thought, paying particular attention to their similarities and differences. As a first step in the separation process, I will place judicial and tax enforcement proceedings in the system of enforcement law (highlighting the conflict of competence), then I analyze in detail and compare security measures applicable in judicial enforcement, and the legal institutions used in tax enforcement proceedings.

1.1. The system of enforcement law

The general definition of enforcement law can be given in both narrow and broad terms. In a narrow sense, enforcement law is the right to initiate enforcement proceedings, whereas in a broader sense, enforcement law is the set of substantive and procedural consequences which arise in the rights and obligations of the parties (Király, 2015, p. 10). It is important to separate the two different types of enforcement, which are comprehensively defined: there can be enforcement against a person and enforcement which restricts the debtor's property or property rights. In general terms, there are also two types of enforcement against property. On the one hand, there is total enforcement, where the debtor's entire assets are to be used to fully satisfy his debts – this form of enforcement against property is typically used in bankruptcy and liquidation proceedings.

The second group is individual property enforcement, which focuses on the enforcement of individual assets and property rights of the debtor. The category of individual property enforcement includes three methods: judicial enforcement, direct enforcement, and administrative enforcement.

According to the definition of Mátyás Kapa, *judicial enforcement* is „an independent, legally regulated – non-contentious – proceeding in which the state, or an organ that is considered identical to it in certain respects, primarily enforces by means of financial coercion the subjective right recognized by the state as existing and enforceable in a specific individual case, or ensures in advance the subsequent enforcement of the subjective right recognized in a specific individual case or protected before it can be enforced.” (Kapa, 2010, p. 21) Within judicial enforcement, both legal literature and legal practice define two distinct types: enforcement for satisfaction and enforcement by way of security. The essence of enforcement for satisfaction is to ensure that the judgment creditor has access to his claim, which has been created in a manner accepted by the public authorities and which has been the subject of a decision or a document capable of producing legal effects. Enforcement by way of security, on the other hand, is a quasi brought forward „enforcement procedure”, the main purpose of which is to avert the threat to the obligee’s claim by securing it (Ujlaki, 2021, p. 10). A typical example of the latter is the legal instrument of security measure in judicial enforcement proceedings.

Direct enforcement is characterised by the fact that the claim is enforced by the obligee himself, who is neither a judicial nor an administrative body. This form of enforcement presupposes the existence of a legal relationship of non-subordination between the parties, and it is important to highlight that it can only be limited to enforcement against property: the claim can only be recovered from the assets of the debtor. The legal institution of direct enforceability appears, for example, in the case where an employee causes damage to the employer, who thus withholds the employee's wages up to the amount of the damage.

In a general, broad sense, *administrative enforcement* is the possible stage in the administrative procedure, where the authorities empowered by law ensure in a specified way that the obligations laid down by law or by an enforceable decision are carried out. Thus, this way of enforcement against property is basically used to enforce the administrative norms and decisions of public authorities, carried out by administrative bodies or other bodies that also perform administrative functions, primarily in accordance with the rules of *Act CL of 2016* on the Code

of General Administrative Procedure (hereinafter: Code of GAP) (Boros – Hofman – Pollák – Bekecs – Szamek – Szegedi – Vértesy, 2018, pp. 133-135). At the same time, not only the general „side” of administrative enforcement outlined above is known, as we can also talk about special areas that the legislator has removed from the legal framework of the Code of GAP and ordered to be regulated in a separate law – such is tax enforcement itself.

If the debtor does not voluntarily fulfill his payment obligation arising from the law when it is due, he faces administrative enforcement. As a general rule, during tax enforcement, the entire property of the debtor (taxpayer) can be subject to enforcement up to the amount of the debt (or even beyond it, subject to the rules of over-seizure), while in contrast, we can only speak of enforcement directed at a specific asset in a limited number of cases. By way of example, with regard to the rules of underlying liability, if the tax authority asserts a liability against the donee, the donee is only liable to pay the tax up to the value of the gift donated by the taxpayer by way of a document following the commencement of his tax liability (provided that the donee got the gift after the taxpayer's tax liability arose). Therefore, if the object of the gift was a property, the tax enforcement will be carried out only with respect to this property (BH2014. 257). In view of all this, I would like to grasp the essence of tax enforcement as a procedure of a coercive nature, where the tax authority aims to fully recover the obligation by forcing the taxpayer (debtor) to fulfil it, while taking into account the protection of budgetary interests.

1.2. The relations between tax and judicial enforcement

The rules on judicial enforcement and enforcement by the tax authorities often meet with each other. This is partly due to the fact that, prior to the reforms of the tax laws that entered into force on 1 January 2018, tax enforcement was governed, as a general rule, by the provisions of *Act LIII of 1994* on judicial enforcement (hereinafter: Vht.). On the other hand, to this day, the Vht. is still applicable in cases where the three main tax laws – *Act CL of 2017* on the rules of taxation (hereinafter: Art.), *Act CLI of 2017* on the Code of Tax Administration Procedure (hereinafter: Air.) and *Act CLIII of 2017* on enforcement procedures to be effectuated by the tax authority (hereinafter: Avt.) – do not regulate otherwise. Thus, the Vht. functions as a background legislation for tax enforcement.

1.2.1. Conflict of competence

Judicial enforcement is the main road for individual property enforcement – and nothing proves this better than the case of conflict of competence. According to Section 4 of the Vht., if movable property (claim, right) or immovable property has been seized in the course of both judicial and administrative enforcement, the proceeding shall be continued by way of judicial enforcement, in accordance with the Vht. The tax bailiff cannot then proceed with the sale of the seized property, nor can he execute any further assets of the debtor, since the court bailiff has procedural powers in respect of all enforcement acts. The change of competence itself does not depend on the date of the actual transfer of the case: the conflict arises with the fact of the joint seizure in the case of movable property and with the registration in the real estate register in the case of immovable property. A temporary exception to the general rule is provided in the Vht., when it declares, if the same movable property is seized by the tax and the court bailiff as well, where in the course of administrative enforcement an announcement for the sale of movable property has already been published, the proceeding have to be continued by way of judicial enforcement following the completion of the sale and the division of the proceeds in administrative proceedings regarding the sum that remains after the debt is liquidated, provided that the sale was successful.

There are two main exceptions from the general rule of conflict of competence. The first case is when the court bailiff conducts court enforcement against a person, who is in the position of a debtor in rem in a tax enforcement procedure – in this case, the procedure continues within the framework of judicial enforcement, solely with regard to the property that has become the property of the debtor in rem. The situation is similar in the case when an asset belonging to the joint marital property is seized by the tax bailiff from one spouse and the court bailiff from the other spouse – in this case, the judicial enforcement procedure continues with regard to the asset affected by the joint seizure.

1.2.2. Criterias of delimitation

It can be concluded that both judicial enforcement and tax enforcement have distinctive characteristics, sometimes with eerily similar features – but at the same time, given their specificities, the procedures are also characterised by significant differences. Based on the Acts in force and my research, I believe that the

following framework seems to be an appropriate way to outline, in general terms, what I consider to be the most significant differences between judicial enforcement and tax enforcement:

Governing Acts. The provisions applicable to judicial enforcement are to be found in the main code, the Vht. By contrast, with regard to the principle of *lex specialis derogat legi generali*, the enforcement of tax authorities is governed primarily by the rules of the Avt., and the application of the law laid down in the Art. and Air, while the passages of the Vht. are only the underlying rules in this area.

Competent authorities. The court or the notary is authorised to conduct judicial enforcement proceedings, and the court bailiff, who is appointed to a specific seat in a specific district court, also plays a major role in the proceedings. By contrast, in tax enforcement, the tax authority acts as an administrative body which is performing enforcement acts. The term „tax authority” is generic, as it includes the State Tax and Customs Authority (the National Tax and Customs Administration) and the municipal tax authority, the latter being the local government clerk, as well as the superior body of this tax authority (the county (capital city) government office has the authority to adjudicate appeals against decisions of the local government tax authority). It should be noted that in administrative enforcement, certain social security bodies also have enforcement powers, for example, the health insurance body or the pension fund body also perform enforcement tasks in a narrow range.

Parties in enforcement proceedings. In judicial enforcement, the judgment creditor is on the side of the obligee, who wishes to enforce a right or legitimate claim by means of judicial enforcement using state coercion. On the other side is the debtor (obligor), against whom the judgment creditor has a claim. In comparison, the division of enforcement by the tax authorities is substantially different, since, as a general rule, the tax authority acts as both the creditor and the enforcer. In the case of enforcement upon request, the legal relationship may also include the judgment creditor and judgment creditor authority as well – in this situation, the tax authority is the registration organ in the procedure. On the obligor’s side, there is a taxpayer (debtor) who fails to fulfil his precuniary legal obligation.

Ordering enforcement. While judicial enforcement proceedings are only initiated at the request of the judgment creditor, tax administration proceedings can be initiated either on request or ex officio. A typical example of an ex officio procedure is when a taxpayer fails to fulfil his obligation which was declared in a

decision of the tax authority. By contrast, the procedure is initiated by application if the taxpayer himself applies for an equity or reduction of payment.

The basis of ordering. The basis of ordering in both procedures is the enforcement order, which represents a completely different set of documents due to the specific nature of judicial and tax enforcement. The group of enforcement orders serving as the basis for judicial enforcement is regulated by Section 10 of the Vht. Enforcement orders are a certificate of enforcement issued by the court or a notary public; a document with an enforcement clause issued by the court or a notary public; a judicial order or restraint of enforcement, or writ of transfer, furthermore, a decree of direct judicial notice; a judicial notice on a disciplinary fine; a request made to the central Hungarian authority for obtaining information concerning an individual who owes or who is alleged to owe maintenance; and a ruling by a notary public ordering the sale of property acquired by the State by intestate succession. According to the judicial notice on a disciplinary fine, it is important to note, that the bailiff shall, if possible, collect the fine in the main case (this is of course possible if the fined party is the debtor and the judicial notice on a disciplinary fine takes place before the end of the procedure), in which case – if the court bailiff also acted in the main case – the court bailiff, otherwise the court's economic office is responsible for collecting the fine, through the state tax authority (Gyovai, 2016, pp. 75-88). In contrast, in tax enforcement, no special measures are required to make the document enforceable (such as issuing a certificate of enforcement or an enforcement clause), if the given document is included in the 26-point list declared in the Avt., actions can be taken directly for its enforcement after the due date. To mention only the most important ones, a final official ruling that establishes a payment obligation (for example an order for procedural fine or a decision of first instance); in the case of self-assessment, a tax return containing the amount of the tax payable, tax advance and tax advance addition; a tax assessment notice communicated by the tax authority to the taxpayer; or an order for security measure are considered as enforcement orders.

Extension of enforcement. According to Section 31, Subsection 4 of the Avt., the effect of the seizure of movable properties, real estate properties or and/or claims implemented on the basis of enforcement orders may be extended by the tax authority to debts and costs that become enforceable after the seizure. The explanation for this lies in the continuity of the seizure throughout the whole enforcement procedure. On the other hand, in tax enforcement proceedings,

there is only one comprehensive enforcement procedure covering all the debtor's obligations. This is in contrast to judicial enforcement, where the number of enforcement proceedings against the debtor is limited to the number of obligations incurred – given that in this procedure there is no possibility to extend enforcement as a special enforcement act.

Suspension and termination of enforcement. There is no overlap between the cases defined in the Acts regarding the suspension and termination of enforcement. There is only one exception to this statement, the right of equity: the tax authority may exceptionally suspend the enforcement proceedings upon the debtor's request if the debtor has justified any reasonable circumstance giving reason for the suspension, and the debtor was not punished by any procedural fine earlier in the course of the enforcement proceedings.

Statute of limitations. The general rules of statute of limitations are declared in Book Six, Chapter IV of *Act V of 2013* on the Civil Code (hereinafter: Civil Code): unless otherwise provided for in this Act, claims shall lapse after five years. The regulations of the Avt. states, that the right to the enforcement of a debt or a specific act expires after four years upon the last day of the calendar year of the maturity of the debt. However, if the tax authority implements enforcement actions, the limitation period extends for six months. Judicial enforcement does not have its own rules for the statute of limitations, so the general provisions of the Civil Code apply to the proceedings, with regard to obligations for which other laws set a different limitation period (for example, the limitation period for civil claims arising from subscriber contracts is one year).

Security measure. Given that judicial enforcement and tax enforcement are of the same nature, yet cover significantly different areas of law, the rules on the legal institution of an injunction cannot be entirely identical. While the procedure governed by the Vht. is aimed at the enforcement by the court of various claims by the judgment creditor, the focus of tax enforcement is on the enforcement of tax, tax-related obligations and other claims based on external requests. Consequently, any security measure that can be taken in tax enforcement cannot be directed at claims that can only be secured – and ultimately enforced – through judicial enforcement. This is also true in reverse: for example, the nature of the enforcement by the tax authorities precludes the authorisation of payment in the context of judicial enforcement proceedings, since this legal instrument can only be applied in the context of the freezing of accounts ordered by the state tax and

customs authorities as a security measure. In the following, I will examine the two types of security measures that can be used in these two areas in detail and make a distinction between them.

2. Security measure in judicial enforcement

2.1. *The regulations of ordering*

Judicial enforcement is a non-contentious procedure which can be initiated only at the request of the judgment creditor, with particular attention being paid to the creditor's right to dispose of the claim. Consequently, neither enforcement for satisfaction nor enforcement by way of security (ordering a security measure) can be started ex officio, but requires the judgment creditor to make an application for enforcement before the court ordering enforcement. Application for enforcement in cases falling within the powers of court bailiffs may be also submitted directly to the competent bailiff by disclosure of the information. In this case the bailiff fills out the enforcement order form and forwards it to the court having jurisdiction to order judicial enforcement.

When filing an application for enforcement, the judgment creditor needs to disclose the name of the debtor (denomination, corporate name) and any data necessary for his identification (at least the place and date of birth, mother's name, registration number of organization, company registry number), depending the circumstances of the case, the debtor's domicile, workplace or registered address, place of business and the venue where the debtor's enforceable assets are located. The judgment creditor has to disclose at least one item from the data listed above. If the judgment creditor is applying for enforcement of a immovable property claim, the real estate registration data needs to be supplied as well. Furthermore, he has to declare whether a subordinated lien is filed on the secured lien (if so, the judgment creditor has to disclose the name of the holder of the subordinated lien, the particulars of the real estate property affected by the subordinated lien, accompanied by the certified title deed of the property issued within fifteen days to date). After the judgment creditor submitted his application for enforcement in the number of copies requested for the issue of an enforcement order (the original remains with the court, association all judgment creditor(s) and debtor(s)) in a properly

completed form, the court shall examine it promptly, in any case within not more than fifteen days from the date of receipt to determine whether the case should be referred to another court or should be rejected. If the judgment creditor has no legal counsel, and has submitted his application by means other than the prescribed form, or failed to submit the proper number of copies of the form, or to complete it properly, the court shall – of its own motion – rectify any such deficiency based on the information available in judicial documents. If the application of a party represented by counsel is found insufficient, the court shall reject it. Then, after the examination, the court decides on the application for enforcement and issues the enforcement order (certificate of enforcement, affixing an enforcement clause).

The court can issue the enforcement order if the general conditions of enforcement are met. According to Section 13, Subsection 1 of the Vht., the enforcement order can be issued if the writ of execution contains an obligation (ruling against the debtor), is final, definitive or is subject to preliminary enforcement and the deadline of performance has expired. But cases may occur, when the general conditions of enforcement are missing, ergo the writ of execution is not final, not subject to preliminary enforcement or the deadline has not expired yet, but there is a risk that the debtor will fail to satisfy the claim at a later date – this is when the possibility of the legal institution of security measure comes to the fore.

No attempt has yet been made in the legal literature to define security measure, the commentary to the Vht. is merely stating that a security measure is a barrier to the success of subsequent enforcement (B. Korek, 2009, p. 456). This definition although meets the requirements of the Constitutional Court – 46/1991. (IX. 10.) Decision of the Constitutional Court requires a judicial or other procedure providing guarantees as a precondition for enforcement –, however, does not include the most important elements defining the legal instrument and the conditions for its ordering. In the light of the above, I would define the concept of a security measure as follows: *a security measure is a measure ordered by the court at the request of the judgment creditor to ensure the satisfaction of a claim and the success of subsequent enforcement, where an enforcement order cannot yet be issued and the judgment creditor has established that the satisfaction of his claim at a later date is at risk.* It means, that if an enforcement order has already been issued, there is no longer any possibility to order a security measure. It should be noted that this definition is intended to summarise the content of a security measure in the classical sense

and is not applicable in cases where security measure may be granted in the course of litigation or possibly before litigation.

Konrád Imling summarizes the purpose of regulating the security measure as follows: “...*the security of justice requires that the party seeking justice must be given the opportunity and means by law to obtain, in certain cases, a preliminary guarantee that his claim to be fulfilled will be enforced by means of coercive enforcement*” (Imling, 1884, p. 409). In other words, a dual purpose is defined: on one hand, the legal institution provides an appropriate guarantee for the judgment creditor against the debtor if he can make it probable that the debtor would withdraw the assets serving as the basis for his claim from enforcement, and on the other hand, it serves to ensure the successful conduct of the enforcement procedure – so the ultimate aim of the legal institution is to create a state of lawfulness through the fulfilment of an obligation.

As regards the existence of a threat to satisfaction, as a general criterion, this can be said to be the case if there is a possibility that, at the time the dispute is brought to an end, the property which is the subject of the claim or the assets which serve as security for it may no longer be enforceable, for example because the debtor has transferred ownership of the property in question to another party or it is no longer available. Under the text of the law, it is sufficient for the judgment creditor to establish the probability of threat, as it is generally difficult to prove the preparatory acts of the debtor (B. Korek, 2009, p. 456). The Vht. does not contain any specific provisions on when the satisfaction of a claim is at risk, the answer to this question must be sought in the case law. In the opinion of the Supreme Court, the fact that attempts to sell a property have failed, but even if the sale were successful and the proceeds covered only part of the claim, the plaintiff would have no guarantee of repayment of the remaining instalments, constitutes a threat to the existence of the claim (BH1996. 653). The situation is similar if the debtor's share of the business is put up for sale in order to settle a debt (BH2001. 331). In another case, it has been established that, where enforcement proceedings are pending against the debtor in another case, it is also sufficient to establish that the subsequent satisfaction of the claim is at risk (BH2001. 24).

The court expedites its decisions concerning security measures and issues a ruling thereof within no more than eight days, and sends a copy thereof to the administrative department of the Association by way of electronic means.

The court has to have the ruling ordering a security measure delivered by service of process to the judgment creditor and to the authority of record if the debtor is a company, and to the judgment debtor in the case of a writ of attachment of immovable property. Upon receipt of the writ ordering a security measure, the bailiff shall immediately advise the judgment creditor to pay the advance amount within a short period of time – according to Section 34 of the Vht., the costs of the enforcement procedure shall be advanced by the judgment creditor and borne by the debtor. As far as the amount which has to be paid in advance concerned, in respect of the enforcement of a security measure the bailiff shall be advanced funds to cover his fees in full and the estimated expenses or the average cost allowance before commencement of the proceedings. If the judgment creditor pays the amount, the bailiff shall commence enforcement of the security measure upon receipt of such advance.

2.2. Performing security measures: securisation of a financial claim and seizure of a specific thing

The Vht. regulates two types of security measures: firstly, the securisation of a financial claim, and then, defines the concept and essence of the seizure of a specific thing. The type of legal institution that is justified in a given case is determined by the nature of the claim.

A financial claim may be secured if the debtor fails to pay the amount specified in the decision of the court containing an obligation. In this case, the bailiff delivers the ruling ordering the provision of the securisation of a financial claim to the judgment debtor in person, and advises the judgment debtor to pay the amount to be secured without delay to the bailiff. In the event of the judgment debtor's failure to comply, the bailiff must seize the assets of the debtor. The same procedure shall be applied if the judgment debtor is not present, in which case the bailiff shall serve the enforcement order and a copy of the seizure report to the judgment debtor by mail.

If the debtor has no assets or movable properties to seize, the bailiff can freeze from the judgment debtor's account as well. In this case, the bailiff shall advise the payment service provider where the judgment debtor has money deposited to freeze any and all withdrawals from the judgment debtor's account(s) to an extent sufficient to cover the amount to be secured and the costs of the

procedure, and to include any future deposits if the current balance is insufficient to cover the said amounts (it is called the bailiff's intervention for the freezing of assets). The payment service provider shall initiate the measures deemed necessary for compliance with the bailiff's intervention for the freezing of assets without delay, and shall carry them out according to the time limits specified for the execution of payment orders in the Payment Services Act. The enforcement notice must also include the provision that, if the debtor's payment account does not have sufficient funds, the payment service provider is obliged to monitor the debtor's financial movements until the blocked amount reaches the amount specified in the notice. As a result, the debtor's funds will be blocked by the bailiff, and he will lose his right to dispose of them. However, it is important to mention that the amount collected in this way must be managed in the bailiff's deposit account and cannot be allocated to the judgment creditor. According to Subsection 3, the payment service provider must inform the bailiff within eight days of receipt of the advise as to the amount frozen in compliance with the bailiff's request, following which the assets of the judgment debtor may be seized only to an extent to cover the remaining portion of the claim. Any deposits made after the advise shall be subject to the same procedure.

If the debtor has no movable properties and the bailiff's intervention for the freezing of assets was not also successful, the bailiff can seize the debtor's immovable property to secure a financial claim as a last possibility. If the bailiff does so, he must immediately contact the real estate authority to register the right of enforcement in the real estate registry. Furthermore, the debtor's wages may be attached if the judgment debtor has no other assets to be subjected to enforcement and used as collateral for the amount to be secured.

In respect of the provision of the securisation of a financial claim, the seizure process shall be concluded upon seizure or sequestration, or upon receipt of payment into the bailiff's deposit account or upon issue of advise to the payment service provider in the cases of seizure of claims or wages. Perishable things shall be sold immediately after seizure – the advance payment of the cost of the sale shall be borne by the judgment creditor. There is an opportunity to release a seized property in the event of the judgment debtor's payment of the amount to be secured after seizure, or if the claim is secured from his account or deposit as frozen by the payment service provider following advise, or judgment creditor's failure to advance the costs of sale of perishable things.

Another type of security measure is the *seizure of a specific thing*, which may be ordered if the claim is for an individually specified asset (Pestovics, 2005, p. 239), which serves to ensure that the asset to which the judgment creditor has a claim remains intact and can be placed in the possession of the creditor during the enforcement of satisfaction (Schadl, 2021, pp. 352-354).

A specific thing can be seized in relation to both movable and immovable property. In the case of a seizure of movable property – taking into account the general rules of the enforcement of movable property – the bailiff must deliver the writ of sequestration of movable property to the judgment debtor in person and shall seize the property with inspecting the movable property in question and recording it in the seizure record. It should be noted that the seizure of movable property can also be carried out by impoundment, if it can be presumed that the judgment debtor will not safeguard the movable property seized, the bailiff shall place such movable property in a secure storage place (cabinet, chest, etc.) or in a separate room, and shall lock and affix his seal on it. It is important to emphasize that, as is well illustrated by Section 194, Subsection 2 of the Vht., it is essential to distinguish between seizure and impoundment. While seizure is a security measure ordered by the court (notary) in an order at the request of the judgment creditor, impoundment is regulated by Section 105 of the Vht. is nothing more than a measure taken by the bailiff, a quasi-qualified seizure, which is more burdensome for the debtor, since the bailiff does not leave the thing affected by the impoundment in the debtor's possession. During the execution of the seizure, perishable things may also be seized: in this case, the movable property must be sold in accordance with Section 116 of the Vht. However, if the judgment creditor has not paid the costs of the sale in advance, the perishable property must be released from the seizure.

If the seizure is ordered in relation to immovable property, the bailiff's action includes an immediate request to the real estate authority to register the seizure in the real estate register – another important difference compared to the securing of a financial claim is that in the case of a seizure, a record is made, whereas in the case of a financial claim, a right of enforcement must be registered. An important legal consequence is that after the registration, rights may only be registered with effect dependent on the termination of the seizure – thus, the seizure carries a prohibition on alienation and encumbrance (Lukács – Rák – Szécsényi-Nagy, 2021, p. 660). The real estate authority is obliged to register the seizure on the immovable property owned by the debtor, and to send the

resolution on the registration to the bailiff, the parties, and those who have rights registered in the real estate register regarding the immovable property.

Upon receipt of the real estate authority resolution on the registration of attachment, the bailiff shall turn over the immovable property to an official receiver if the judgment debtor is unable to operate the immovable property due to an extended absence or to some other reason, or the judgment creditor requested an official receiver to be appointed, and this was found substantiated by the bailiff in view of the circumstances of the case. The Vht. does not define the scope of people who can be appointed as official receivers, however Section 197 declares, that on general principle, the bailiff shall appoint a person or agency recommended by the competent district office as the official receiver of land. District offices shall file a statement within eight days of the bailiff's request concerning their nominee for an official receiver – if the district offices do not file a statement, the bailiff can appoint an official receiver freely. According to Section 198, the official receiver shall manage the immovable property with due diligence, give account on the financial aspects of the immovable property to the bailiff, and pay the net income of the immovable property to bailiff's deposit account. It should be noted that the official receiver may perform his duties for a long period of time, until the court (notary) orders enforcement of satisfaction in the event of the later occurrence of the conditions specified in Section 13 of the Vht., or decides to terminate the security measure.

Overall, it can be stated, that in judicial enforcement, the Vht. distinguishes between two types of security measures: securisation of a financial claim and the seizure of a specific thing. If a financial claim is at the center of ordering the legal institution, securisation, if a movable or immovable asset, then seizure of a specific thing can be applied.

3. Security measures in tax enforcement proceedings

Given that enforcement is an optional procedural stage, it is important that judicial enforcement have to be preceded by a procedure in which the debtor is bound by an obligation, on the basis of which the court may order the issuance of an enforcement order. The situation is similar in tax enforcement proceedings as well where a tax audit is carried out firstly, where an obligation of a payment may be established (for example, the auditor declares tax deficiency) or the tax

authority is expected to make a decision on a claim. If, during the preliminary procedure, there are already reasonable grounds to believe that the debtor would remove the assets at his disposal from the enforcement proceeding, in order to fail the successful outcome of a subsequent enforcement proceeding, it is essential to have a legal institution which the tax authority can use to secure the claim in order to ensure that the debtor would comply with his payment obligation, with the help of the executive force of the state – this is the purpose of security measures.

In an universal, comprehensive approach, the security measure is not a separate administrative matter, but an immediately enforceable action by the tax authority under the conditions and cases laid down by the Air (Kovács, 2017, online). It is in fact a special legal institution with a precautionary, temporary nature, which can be used prior to the enforcement procedure and which, in substance, protects the tax authority by creating a guarantee situation which allows the subsequent tax enforcement procedure to be succeed. The purpose of the institution is not the immediate satisfaction, but the satisfaction of the claim at a later date. Furthermore, with its help, it can be prevented that the debtor – with his misused behavior – would remove the coverage not yet available (Földes, 2007, p. 111), and thus causing an administrative delay in the satisfaction of enforcement. However, it should be pointed out, that the use of this institution is only appropriate, when the debtor has – or can reasonably be expected to have within a short period of time – an asset at his disposal, on which the security measure can be effectively performed.

The rules governing the ordering of security measures are placed in the Air. while the provisions regarding to its performing are placed in the Avt., with a note, that regarding to Section 3 of Avt., the Vht. must be applied as a background legislation. In the light of the passages set out in Air., there are two important elements for the ordering of a security measure: on one hand, a decision declaring or presuming the payment liability (which can be a decision, notes or minutes), and on the other hand, an order which essentially orders a security measure. This order is issued by the tax authority that made the decision establishing the payment obligation, then in accordance with the content of the order prescribing a security measure, it is performed by the enforcement body (bailiff) in the taxpayer's (debtor's) jurisdiction. According to Air. Section 82, Subsection 4, an appeal can be lodged against the order prescribing a security measure – but it has no suspensive effect on the implementation of the order.

In relation with security measures, from 2019 it has been clarified that if enforcement proceedings are initiated following a security measure, then the effect of the action performed in the course of implementing the order prescribing the security measure shall extend to the execution procedure as well. This rule guarantees that if an enforcement proceeding was initiated against the taxpayer, it will not be necessary to repeat all the acts carried out in the context of security measures in order to effectively enforce the claim (Kovács, 2017, online).

It is important to point out, that the name of the legal institution is a quasi-generic term, since – depending on the stage of the preliminary procedure – it includes both the „classical” security measure and under certain legal conditions, the order for a temporary security measure. I therefore consider it essential to present, examine and analyse the forms of security measures that can be used in tax enforcement.

3.1. „Classical” security measure: securisation of a financial claim

Under Section 82, Subsections 1-2 of Air., as a „classical” security measure, the tax authority shall order the securisation of the financial claim, if it is likely that the future fulfilment of a claim is in danger, and if the time limit for fulfilment determined in the tax authority decision establishing the payment liability has not expired yet. The Air. thus lays down conjunctive conditions, requiring the existence of two: on one hand, the claim of the tax authority is yet to be fulfilled, so enforcement proceedings cannot be brought to recover it, since one of the legal conditions is still missing – like in judicial enforcement. Therefore, the decision of the tax authority is not yet enforceable (for example, because the person entitled to appeal has appealed against it), or it is enforceable, but the time limit for fulfilment laid down in the decision has not yet expired. On the other hand, there are reasonable grounds to suspect that the future fulfilment of the liability prescribed in the decision on the merits is at risk.

The existence of the liability being at risk is an essential condition in tax enforcement proceedings as well, which must be clearly justified in the order which prescribes the security measure, with pointing out the reasons explicitly. The probability must be assessed by taking into account the taxpayer’s previous tax discipline, his behaviour during the tax procedure establishing the payment liability, his financial situation and the amount on which the security measure is

based. The risk of the future fulfilment of a claim is illustrated by the following examples, which can be considered typical in the practice of tax authorities: the fact that the taxpayer was an executive officer of a company which was terminated in the current or previous year, in a liquidation procedure; he has engaged in activities contrary to the requirements of reasonable management; if the taxpayer has previously been granted a payment reduction by the tax authority but refused to fulfill the requirements; and that the taxpayer's affiliated company has been terminated in liquidation or compulsory liquidation proceedings.

3.2. Temporary security measure

Where there are reasonable grounds to suspect that the future fulfilment of the liability that may be prescribed in the decision on the merits is at risk, the tax authority shall take the measures set forth in Section 82, as temporary security measures, before making a decision to the merits of the case, within five days upon the occurrence of the circumstances giving reasons to them. It is important to point out, that there are no temporary security measures in judicial enforcement.

By comparing this passage of Air. and the provisions governing the „classical” security measure, it can be concluded that these two legal institutions are, at first reading, almost identical – however, it is essential to point out some nuanced, but more significant differences. First and foremost – and perhaps highlighted on the most important difference between these two institutions – it should be emphasised, that while in the case of a „classical” securisation of a financial claim, the decision of the tax authority is already existing, while in the case of a temporary security measure, there is no decision on the merits establishing a payment liability. In fact, a situation arises in which the taxpayer may expect the tax authority to decide on his payment liability in the future, but no such decision has been taken yet. However, it is reasonable to assume, that he would later seek to remove his assets from execution, either by transfer of by other acts in bad faith. The Air. thus creates the possibility for the tax authority to order a securisation of a financial claim on the debtor's assets as a temporary security measure – given that with the lack of a decision on the merits, there is no place for a „classical” security measure.

For example, this may be the case if the tax authority appoints a contributor organisation to carry out a specific act of demolition, and the cost of the specific act is already included in the decision appointing the contributor organisation, but in this stage of the procedure, the order on bearing the costs cannot be issued (it is only possible after the actual performance of the act and the issuing of an invoice). The performer of a specific act will then be aware of the costs and acting in bad faith, may encumber or alienate the property (or even other assets) that is at the location of the act. If the taxpayer's dishonest behaviour, which is contrary to the requirements of reasonable management is discovered, the tax authority will order a temporary security measure against the taxpayer's assets to secure its claim in relation to the participation of the contributor organisation involved in a specific act.

Another important difference is, while a „classical” security measure can be ordered until the date on which the tax authority's decision becomes due. In contrast, in the case of a temporary security measure, the tax authority has only five days to decide on that. The five-day time limit in question must be calculated from the moment the circumstances arise – a condition which the Curia has also emphasised in its case-law (Curia Kfv.I.35.171/2020/4.). It should be pointed out, that this five-day period is a term of preclusion, and once it has expired, no further temporary security measures may be ordered. If, however, a temporary securisation of a financial claim is ordered after five days, it is considered to be out of time and cannot be performed (Darai, 2021, pp. 685-694).

All in all, therefore, exemplified by the cost of the implementation of a specific act, the cases in which a temporary security measure and a „classical” security measure can be distinguished as follows:

If the order appointing a contributor organisation to carry out a specific act (so an order on the costs of the enforcement is yet to be made), and within five days the tax authority becomes aware of such a behaviour on the part of the debtor, which may suspect that the future fulfilment of the liability is at risk, a *temporary security measure* can be ordered.

If, however, the act has already been carried out, an invoice has been issued, and the tax authority has issued an order for the expenses, but it is not yet enforceable (not final, not due), in this case a „classical” *security measure* may be ordered.

3.3. The legal institution of authorisation of payment

As of the 1st of January 2018, the Air. has added a new legal institution to the rules of security measures, which is a special possibility to authorise a payment. On explicit request of the taxpayer, in the sequence and amount determined by him, the tax authority may authorise the payments to certain persons from the blocked account, if the tax authority – in the course of a tax audit – blocks the taxpayer's payment account as a security measure or temporary security measure. The authorisation of payment must be submitted to the authority which ordered the security measure, not to the body who is performing the enforcement. It is important, that the taxpayer must provide evidence in his application, which justifies that he is not able to make his payments from other sources than the blocked property or that his activity suffered disproportionate restraints. However, payments from the blocked account may be authorised until the decision declaring the payment obligation, serving as a basis for the security measure becomes final.

The Air. sets a short time limit of fifteen days for the tax authority to adopt decision on the application of authorising a payment. The tax authority decides on the authorisation in the form of an order, which may be an order upholding or dismissing it in whole or in part. The Section 84, Subsection 4 of the Air. allows to lie an independent appeal against the order rejecting the authorisation of payment and authorising partial payment, with a note that the order authorising partial payment may be enforced without paying regard to the appeal lodged against it.

If the taxpayer fulfills his liability to provide evidence, the tax authority upholds the application in whole. As appropriate, the Air. excludes any possibility of appeal, independent or otherwise against this order, so the order authorising a payment becomes final and consequently enforceable upon notification of the decision.

In the event of authorisation of payment, the tax authority shall immediately request the payment service provider that keeps the taxpayer's blocked payment account to perform payment, because the payment is not made to the taxpayer, but it is directly made by the payment service provider to the entitled people (Kovács, 2017, online). The payment authorised by the tax authority may not be used to cover any other claim, it is exempt from any other execution.

3.4. *The rules on performing security measures*

In the view of security measures, the enforcement order itself is the order of security measure, which enables the performing of the act to be enforced within the framework of the legal institution and thus the claim at risk to be secured. According to the Avt. Section 96, the resolution ordering security measures on financial claims shall be delivered by the bailiff to the judgment debtor on the spot (at the debtor's residence or registered office), since it is of particular importance that the security measure – and thus the securitisation of a claim – should be unexpected and the debtor should not be able to have his assets seized. This also overturns the order of satisfaction, as if the debtor has a representative, the bailiff would have to firstly notify the representative of the security measure ordered against the debtor – which would raise serious concerns as it would follow the premature notification of the debtor and the debtor's behavior in bad faith.

At the time of delivering the order, the bailiff calls the judgment debtor to *immediately pay* the amount to be protected: it is the simplest way, because if he does so, the enforcement of the security measure is completed. But if the judgment debtor fails to comply with this, the bailiff *attaches the properties* of the judgment debtor. The procedure is similar in that case as well, when the debtor (or his representative) is not present when the bailiff is delivering the order, because the failure of delivering the enforcement order does not prevent the attachment of the assets. The bailiff draws upon a seizure report, listing the judgment debtor's movable property for the purposes of seizure, and then sends its copy with the enforcement order by post to the debtor and his representative. The reason of these provisions is given by the purpose of security measures, which is to grant the possibility to the tax authority to take immediate actions to ensure that the liability, which is the subject of the procedure is secured for the enforceability of the resolution made in the main proceedings in the future (Kovács, 2017, online). If the debtor has properties which can be seized on the spot and provide appropriate coverage to secure the claim, no further action is necessary – otherwise the bailiff will move on.

It is important to note, that Avt. Section 5 declares that the sequence and time of enforcement actions shall be determined by the tax authority within the limits determined by this Act – according to this principle, as a main rule, in tax enforcement proceedings there is no order when it comes to the performing of

enforcement acts. However, in contrast to this provision, the rules for enforcement acts implemented within the framework of security measures does contain a certain order: because the bailiff may only move forward and initiate further enforcement acts, if the previous one was not successful – but only if it is in accordance with the principles of proportionality and effective procedure. The order laid down by Avt. must be taken into account while performing the enforcement acts, as must the fact that the implementation of security measures may not endanger the subsistence of the judgment debtor and his close relatives living with him, and also the impossibility of his economic activity.

If the attempt on seizing the assets on the spot is unsuccessful, the tax authority – according to the next step – can by way of a separate order, *seize central subsidies* including tax reclaims and tax refunds owed to the judgment debtor and reviewed by the tax authority up to the amount of the liability determined in the order providing for the security measures with respect to financial claims. The consequence of the measure is that the judgment debtor's right of disposal over the seized sum shall cease during the effect of the security measure: the debtor cannot dispose of subsidy, but the seized amount must be taken into account as secured.

In the absence of central subsidies which can be seized, the bailiff *seizes the debtor's movable and immovable property*. The Avt. lays down special provisions compared to the general rules in relation to the *seizure of a vehicle* within the framework of a security measure, since in this case it can be implemented by recording the vehicle in a vehicle seizure report and/or, if possible, by the seizure of the registration papers. If the *seizure of real estate property* is necessary, the tax authority immediately calls upon the real estate supervisory authority in order to have the right to enforcement registered for the protection of financial claims – for the subsequent procedure, the provisions of Section 52 governs *mutatis mutandis*. It should be pointed out, that Section 96, Subsection 6 of Avt. excludes the cultural goods from the orders providing security measures.

If the debtor does not have any seizable assets, the tax authority performs the security measure on the amount handled by the payment service provider – it is called the *bailiff's intervention for the freezing of assets*, which involves the freezing of the debtor's bank account. In this case, the tax authority – in the view of Avt. Section 96, Subsection 7 – instructs the payment service provider handling the amount owed to the judgment debtor not to pay the sum to be secured either to

the judgment debtor or to others from the account, and if the balance of the account does not reach the sum to be protected, act similarly with future payments. The bailiff's intervention for the freezing of assets is not subject to any specific formality, but requires all the information (name of the debtor, tax number, payment account number, quantification of the amount to be secured) which the payment financial institution considers indispensable for the execution of the request (Darái, 2018, p. 7). The payment service provider must immediately start the measures required to comply with the tax authority intervention, and must also fulfill its obligation to notify the tax authority within eight days upon delivery of the request about the sum for which the measure could be implemented. If the intervention is partially successful, the judgment debtor's assets that are not yet seized may only be seized up to the remaining amount of the claim. However, in the case of a security measure, the freezing the debtor's bank account the rules of exemption in respect of sums placed on payment accounts must be applied as well.

A special situation arises, if the amount on the debtor's payment account covers the claim, but previously his assets have been seized. In such cases, the tax authority must decide on to maintain the seizure on the assets or the bank account – if the latter, the assets must be released from seizure.

In the order, the last enforcement act within the framework of security measures is the *garnishing of income*. It can be carried out as a last act, if the judgment debtor has no other asset that may serve as a cover for the sum to be protected and that may be subject to enforcement. It should be noted, that the rules of exemption in respect of incomes must also be applied as well.

Conclusions

Comparing the results of my research, I believe that the legal institution of the security measure is an essential part of both judicial and tax enforcement. Given that bad faith behaviors from the taxpayers can be extremely wide-ranging and thus easily make the subsequent enforcement of satisfaction unsuccessful, the interests of the creditor (and in tax enforcement proceedings, the budgetary interests) can be harmed. It is therefore essential to have a tool in the hands of the judgment creditor and the tax authority to prevent attempts to set the enforcement back.

In my opinion, the hypothesis I outlined at the beginning of my research has been confirmed: security measures in judicial enforcement and tax enforcement proceedings are equal in their own way, yet still different. As for the role of the legal institution in the judicial and tax enforcement proceedings, its essential elements, such as its special and restrictive nature, are present in both procedures, the differences, in my opinion, are given by the specific characteristics of judicial enforcement and tax enforcement. After all, while in judicial enforcement the aim is to fulfil the claim arising from the legal relationship between the judgment creditor and the debtor by means of state coercion, tax enforcement focuses on the tax authority's interests, paying special attention to the specific, relative relationship between the tax authority (state) and the taxpayer. I believe that the specific nature of tax enforcement also results in the legal institutions of temporary security measures and authorization of a payment, which are not known in judicial enforcement.

In connection with the ordering of the security measure, while on one side there is a court ordering enforcement and the judgment creditor as the obligee, on the other side these roles are intertwined: the tax authority decides on the ordering of the security measure and is also the obligee of the claim. In my opinion, this important difference comes from the special nature of the tax administration procedure and tax enforcement, since in these proceedings a third party (judgment creditor, judgment creditor authority) intervene very rarely between the debtor and the tax authority.

As far as the performing of the legal institution is concerned, both procedures follow the order of the (court or tax) bailiff first calling the debtor to pay the debt, if he fails to do so, his assets are seized. If the debtor does not have any assets to cover the claim, which is in the focus of the enforcement act, tax enforcement proceedings may also include the possibility of holding back a tax reclaim or a tax refund, as well as the freezing of the amount in the debtor's bank account. These enforcement acts may be followed by the subsequent seizure of movable or immovable property, but it is important to note that in the case of seizing movable property, the assets exempt from enforcement referred to in Section 90 of the Vht. must be taken into account, and the auction of immovable property may only be carried out as a last chance, if it is not possible to fulfil the claim within a relatively short period of time and the judgment creditor also requests it.

Above all, the study mentions the issue of conflict of competence between judicial and tax enforcement, in relation to which authority can take action. In this case, if an asset is seized in the course of both judicial and tax enforcement, the proceeding is continued by way of judicial enforcement – the main road for individual property enforcement. In my point of view, it is important to analyze the regulations concerning the conflict of competence, because it gives priority to judicial enforcement, and can be relevant to future legislation.

Overall, I believe that the security measure laid down in both Vht. and Air./Avt. is an indispensable legal instrument in its own field of law. In my view, in the field of enforcement, the existence of a legal institution that serves the interests of the obligees by creating an exceptional situation through a coherent regulatory model is particularly necessary and justified. However, in my opinion, attention should also be paid to ensure that the measure does not result in excessive restrictions on the debtor's right of disposal and his property, or in the impossibility of his financial situation and economic activity.

References

Act LIII of 1994 on judicial enforcement

Act CLIII of 2017 on enforcement procedures to be effectuated by the tax authority

Act CLI of 2017 on the Code of Tax Administration Procedure

Act CL of 2017 on the rules of taxation

Act CL of 2016 on the Code of General Administrative Procedure

B. Korek Ilona (2009): Biztosítási intézkedés végrehajtása. In: Balogh Olga – B. Korek Ilona – Császti Ferenc – Juhász Edit (eds.): *A bírósági végrehajtás*. HVG-Orac Lap- és Könyvkiadó, Budapest

Boros Anita – Hofman István – Pollák Kitti – Bekecs Andrea – Szamek Gabriella – Szegedi László – Vértessy László (2018): *A közigazgatási hatósági eljárás általános szabályai az Ákr. szerint*. Nemzeti Közszolgálati Egyetem Államtudományi és Közigazgatási Kar, Budapest

Darai Péter (2018): A zárolás iránti végrehajtói felhívás I. *Cégbírók*, 2018/5.

- Darai Péter (2021): Egy kúriai döntéssel kapcsolatos aggályok. *Magyar Jog*, 2021/12.
- Földes Gábor (2007): Az adózás rendje. In: Simon István (ed.): *Pénzügyi jog II.* Osiris, Budapest
- Gyovai Márk (2016): A rendbírság. In: Gyovai Márk – Wopera Zsuzsa (eds.): *Kézikönyv a bírósági végrehajtás fogatosításához.* Wolters Kluwer, Budapest
- Imling Konrád (1884): *A végrehajtási törvény (1881. évi LX. törvények) magyarázata.* Franklin Társulat, Budapest
- Kapa Mátyás (2010): *A közjegyző szerepe a bírósági végrehajtásban.* Közjegyzők Közlönye, 2010/4.
- Király Lilla (2015): *Bírósági végrehajtás Magyarországon és az Európai Unióban.* Egyetemi jegyzet, Pécsi Tudományegyetem Állam- és Jogtudományi Kar, Pécs
- Kovács Ferenc (2017) (ed.): Nagykommentár az adóhatóság által fogatosítandó végrehajtási eljárásokról szóló 2017. évi CLIII. törvényhez (online). In: *Wolters Kluwer Jogtár.* Wolters Kluwer, Budapest
- Kovács Ferenc (2017) (ed.): Nagykommentár az adóigazgatási rendtartásról szóló 2017. évi CLI. törvényhez (online). In: *Wolters Kluwer Jogtár.* Wolters Kluwer, Budapest
- Lukács Tamás – Rák Viktor – Szécsényi-Nagy Kristóf (2021): Biztosítási intézkedés végrehajtása. In: Gelencsér Dániel – Udvary Sándor (eds.): *A bírósági végrehajtásról szóló törvény és a kapcsolódó jogszabályok kommentárja.* HVG-Orac Lap- és Könyvkiadó, Budapest
- Pestovics Ilona (2005): *Bírósági végrehajtás.* Novissima Kiadó, Budapest, 2005. 239.
- Schadl György (2021): Biztosítási intézkedés végrehajtása. In: Lukács Tamás – Martonovics Bernadett – Schadl György (eds.): *Nagykommentár a bírósági végrehajtásról szóló 1994. évi LIII. törvényhez.* Wolters Kluwer, Budapest
- Ujlaki Tamás (2021): Alapvető rendelkezések. In: Lukács Tamás – Martonovics Bernadett – Schadl György (eds.): *Nagykommentár a bírósági végrehajtásról szóló 1994. évi LIII. törvényhez.* Wolters Kluwer, Budapest