Almost ten years have passed since the entry into force of the new Civil Procedure Code, repealing the 1952 Code. As early as the time of the debates on the bill, some practicing lawyers raised serious objections. Their concerns were that the wording of some provisions was fraught with risks which would create problems in the implementation of the law and lead to violation of the rights of individuals and legal entities. In spite of all objections, the Code was enacted rather hastily and those recommendations were ignored. However, experience has borne it out for the last ten years that lawyers had all good reasons to express their concerns and, for this reason, the Code was amended substantially, although not completely. The amendments to the Code entered into force on 30 October 2017.

The amendments can be traced out along several lines. Their objective is to improve implementation and to increase the opportunities for effective remedial action by the parties. Therefore the amendments apply to all stages of the civil proceedings from the service of the claim form and documents at the opening of the proceedings to the enforcement proceedings and their termination.

The existence of numerous cases in which the parties were not aware of any proceedings opened against them made it necessary to amend the rules concerning the service of documents. The most recent amendments to the law have changed the summons rules with a view to ensuring real safeguards for the participation of individuals in the court proceedings. The same purpose is pursued with another rule that was not adopted during the debates on the amendments to the Administrative Procedure Code, i.e. the rule on the stay of procedural time limits during the court holidays under the Judiciary Act and the official public holidays.

There are explicit provisions on how to calculate the state fees on claims concerning the existence, nullification or cancellation of an agreement on real property rights and the conclusion of a final agreement with the same subject-matter. The new rule is that a single state fee is payable for a single defensible substantive interest.

The multiple cases in which insignificant debts accumulate costs which greatly exceed the amount of the debt in the stage of enforcement proceedings have led to changes in the rules on the liability of debtors for the costs incurred in enforcement proceedings. Again with a

CR legal DL 2018. Всички права запазени.

view to protecting the debtor's interests and overcoming the wrong case law in this respect, the principle of proportionality has been introduced by analogy to the Tax and Social Security Procedure Code. The amendment prevents the sale of immovable property worth considerably more than the existing small debts and hence the occurrence of damage to the property of debtors.

In view to ensuring the protection of the claimant, additional provisions have been introduced with regard to the jurisdiction of some categories of claims. The amendments read that the direct claim of the affected person with respect to whom the insurer is liable may be filed also at the permanent address or place of establishment of the claimant or at the place of occurrence of the insurance event.

The new provisions require that a bank account should be specified in the claim forms of enforceable claims so that the defendants may pay their debt voluntarily and thus unnecessary proceedings and mounting costs can be avoided. Bank accounts should be specified also in the requests for the issuance of enforcement orders.

The provisions on cassation appeals have been amended, too. There were proposals to totally eliminate the admissibility of cassation appeals but they were rejected. Instead, there were introduced more grounds to admit cassation appeals, such as the conflict with acts of the Constitutional Court and the Court of Justice of the European Union. The new rule is that, without prejudice to the other preconditions, appeal judgments may be subject to cassation appeal proceedings in the case of probable nullity or inadmissibility, as well as in the case of obviously wrong judgments. This wording allows very broad interpretation and perhaps the application of this rule would lead to additional problems and to the need for further clarifications in the case law.

Other amendments refer to execution and enforcement proceedings and to the suspension of enforcement. The objective is to ensure that the debtors retain their property until the end of the proceedings so that to establish whether the claimant has the right to claim recovery from the debtor.

The amendments to the law increase the opportunities for the parties to challenge the actions of the private bailiff. As well as the refusal of the private bailiff to undertake the

CR legal DL 2018. Всички права запазени.

required enforcement action and the suspension or termination of the enforcement proceedings, now the claimant has the right to challenge the refusal of the private bailiff to make a new assessment. Previously, the debtor could challenge the fine order and the enforcement on unsequestrable property, the seizure of movable property or the eviction from a property on grounds of failure to serve notification to the debtor, and the order on costs. After the introduction of the amendments, the debtor is entitled to challenge the refusal of the bailiff to make a new assessment, the appointment of a third party to guard the property, and the refusal of the bailiff to suspend or terminate the enforcement. The new term “completion” has been introduced with regard to enforcement proceedings. The refusal of the bailiff to complete the enforcement may be subject to appeal by either the claimant or the debtor.

The electronic account preservation order, the topic of wide public discussions for a long time, has been introduced in the law.

Public auction arrangements have been amended. The notification of the parties of the expert’s conclusion has become mandatory. The parties have seven days to challenge the conclusion. The bidding rules have changed and rules on electronic public auctions have been introduced.

The amendments envisage the option for enforcement on a distinct part of an undertaking and on industrial property rights.

The amendments to the Civil Procedure Code are steps on the right track. They will overcome some essential issues related to the law. However, due to the resistance to change, ultimately the results are only partial. The partial nature of the remedies might lead to new problems in the case law. Therefore further amendments to the Civil Procedure Code are needed.

CR legal DL 2018. Всички права запазени.