

Your World First

# Enforcing Security over Real Estate and Shares across Europe

September 2016



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# Introduction

We are delighted to present the CMS Guide to Enforcing Security over Real Estate and Shares across Europe. It is aimed primarily at investors in non-performing loans that are secured against real estate but the points covered will apply equally to existing lenders and also to debtors.

This Guide considers the following in 24 different jurisdictions in Europe:

- i. a secured lender's main options for enforcing security over the real estate interest;
- ii. a secured lender's main options for enforcing over shares in the owner of the real estate interest; and
- iii. the typical costs and timing of each option.

This Guide assumes that:

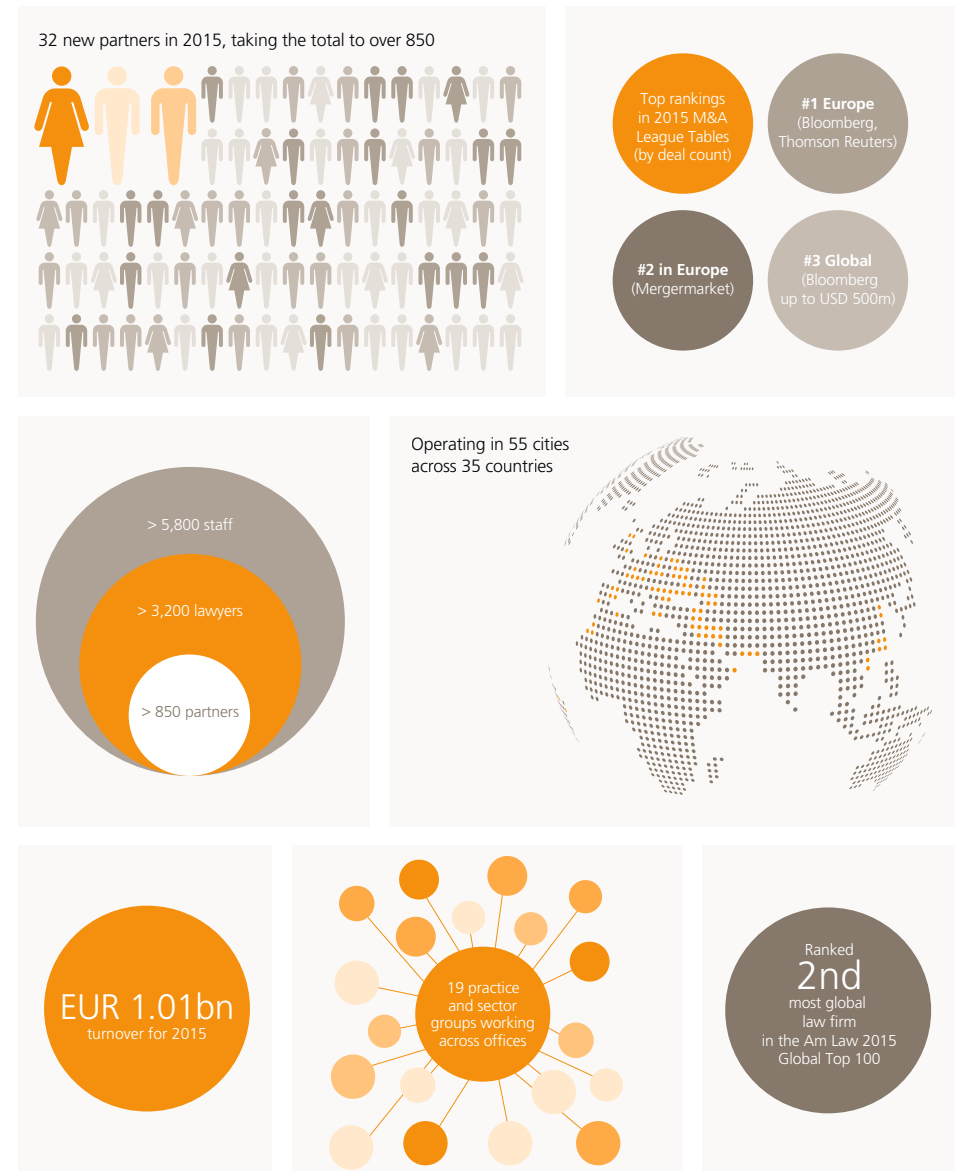
- i. all security is valid;
- ii. all security is granted by companies incorporated in the relevant jurisdiction (or if incorporated elsewhere, the company can be made subject to any local insolvency or other enforcement proceeding, whether as a result of its 'centre of main interest' or COMI being in the relevant jurisdiction or otherwise); and
- iii. the debtor is in default under the applicable finance documents such that the security has become enforceable.

The information in this Guide is a summary and indicative only. It is not legal advice and is not to be relied upon for any investment decisions.

## Contact Us

If you have any questions arising out of any of the information in this Guide, please do contact us. The main contacts for each jurisdiction can be found on page 28.

## CMS at a glance



# Albania



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Receivership:</b> The secured creditor may request that the court orders the commencement of enforcement proceedings. Subject to the court being satisfied that the security has become enforceable, the court will issue a writ of execution within five days of such request, which the creditor would then submit to an enforcement agent.</p> <p>The enforcement agent takes control of the real estate for the purpose of having the value of the property and the secured creditor's rights in relation to the property assessed by the Real Estate Registry (a public body). The enforcement agent also appoints an accountant to calculate the monetary obligations due up to the date of enforcement.</p> <p>Thereafter, the enforcement agent notifies the security provider that the real estate will be sold if the amounts due are not repaid within 10 days. If the amount is not repaid within that period, the enforcement agent would arrange for the property to be sold by way of public auction.</p>	<p><b>Receivership:</b> The security document may prescribe how the shares may be sold by way of public auction on default by the debtor. In the absence of a prescribed process in the security document, the secured creditor would need to apply to court for a writ of execution (as for real estate), and once obtained, has the right to engage an enforcement agent to seize the shares for the benefit of the secured creditor.</p> <p>The enforcement agent is not obligated to notify the debtor prior to the seizure of shares. However following seizure, the debtor will have 10 days to challenge the enforcement by petitioning the court to either (i) protect its rights over the collateral or (ii) suspend the seizure of the shares and relevant proceedings. If the debtor does not successfully challenge the enforcement, the secured creditor may sell (by way of public auction or restricted tender) the shares, provided that the security is registered with the Pledge Registry.</p> <p><b>Change of directors:</b> The secured creditor may, depending on the terms of the security document and the company's constitutional documents, be able to change the directors of the company that owns the real estate.</p>	<p><b>Receivership:</b> Minimal to moderate timing (tends to take at least one to two months from the application to court to sale of the property). It could take longer if the receivers are not satisfied that they are obtaining the best price reasonably obtainable at that time.</p> <p>Minimal to moderate costs, the amount of which will depend on the complexity of the process required to establish market value.</p>	<p><b>Receivership:</b> As for real estate (see adjacent).</p> <p><b>Change of directors:</b> Minimal to moderate timing (tends to take one to four weeks) depending on secured creditor's rights under the security document and the company's constitutional documents (assuming appropriate person(s) willing to take office as new director(s)), with minimal costs.</p>

# Austria



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Public auction:</b> The secured creditor must first obtain a court order against the security provider for the amounts due. The secured creditor may then apply for a court order for permission to sell the property by way of public auction.</p> <p><b>Private sale:</b> The secured creditor may exercise its power of sale over the real estate (if provided for in the security document) following a period of non-payment by the borrower of at least seven days (or one month if the security relates to non-business activities). It is open to the parties to agree on other notice periods. Private sale is less common than public auction.</p> <p><b>Forced Administration:</b> The secured creditor may apply to the court for forced administration of the real estate. The court will appoint an administrator who will manage the real estate pending its sale. Any income generated by the real estate can be used for discharge of the debt owed.</p>	<p><b>Public auction:</b> The secured creditor must first obtain a court order against the security provider for the amounts due and may then apply to the court for an order that the shares be sold by way of public auction.</p> <p><b>Private sale:</b> The secured creditor may exercise its power of sale over the shares (if provided for in the security document). Often, the security document will grant a power of attorney to the secured creditor, giving the secured creditor authority to sell the shares in the name of the security provider without further formality.</p>	<p><b>Public auction:</b> Moderate timing (usually three to six months following a court order being obtained against the security provider). Costs are difficult to estimate as they will include court fees (which can vary widely depending on value of the claim). Valuation costs will also be payable and could range from €34,000 to 60,000, depending on market value and complexity of the security held.</p> <p><b>Private sale:</b> Usually a quicker and cheaper method of enforcement than public auction. Valuation costs still apply.</p> <p><b>Forced Administration:</b> Moderate timing (usually three to six months following a court order being obtained against the security provider). Costs are difficult to estimate as they will include court fees, which vary widely depending on value of the claim. Valuation costs are not payable; however the court appointed administrator receives remuneration for his services (which vary depending on the complexity of the proceedings and whether the sale is successful).</p>	<p><b>Court proceedings:</b> Moderate timing (tends to take three to six months following a court order being obtained against the security provider). Costs are difficult to estimate as they will include court fees, which vary widely depending on value of the claim. Costs will also include valuation costs, the amount of which will depend on the market value.</p> <p><b>Private sale:</b> Minimal to moderate timing (tends to take two to three months). This is often quicker if the security document grants a power of attorney in favour of the secured creditor. Valuation costs still apply.</p>

# Belgium



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Mortgagee sale:</b> The secured creditor may exercise its power of sale over the property.</p> <p>The sale process is supervised by the court. The secured creditor and security provider may agree on a private sale, otherwise the real estate must be sold by way of public auction supervised by a notary public.</p> <p>Under Belgian law, the secured creditor is not permitted to take possession of the real estate for itself.</p>	<p><b>Appropriation:</b> If appropriation is expressly provided for in the security document, the secured creditor may appropriate the shares (up to the amount of the secured liabilities) with no prior court approval required. The secured creditor may then hold or sell such shares as it sees fit. As a shareholder, the secured creditor may influence the board of directors by using its shareholder’s vote for removing and/or appointing directors.</p> <p><b>Sale:</b> The secured creditor may exercise its power of sale over the shares, with no prior court approval required.</p>	<p><b>Mortgagee sale:</b> Moderate timing, could be three to six months. Minimal costs should be expected as the buyer of the real estate will bear the costs of the sale, as well as registration duties (between 10 and 12.5% of the sale proceeds). However, this will inevitably impact the price a buyer is willing to pay for the real estate.</p>	<p><b>Appropriation:</b> Timing is dependent on the complexities in establishing market value, with minimal to moderate costs which are dependent on the chosen valuation process.</p> <p><b>Sale:</b> Minimal timing if the secured creditor is satisfied it is obtaining the best price reasonably obtainable, with costs dependent on the process of sale and the associated transaction documents.</p>

# Bulgaria



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Mortgage:</b> The secured creditor may apply to the court for an enforcement order and writ of execution which the court will grant if it is satisfied that the security document is <i>prima facie</i> enforceable. Once obtained, the secured creditor may engage a bailiff to sell the property by way of public auction. During the sale process the real estate will remain in the possession of the security provider (who will have an obligation to manage it with the care of a ‘good owner’).</p> <p><b>Enterprise pledge:</b> A secured creditor holding a commercial enterprise pledge (similar to an English law floating charge) may sell the real estate by means of a private sale and with no court involvement. The secured creditor must register the initiation of the enforcement with the relevant authority. Thereafter, the secured creditor has the right to sell the property as it sees fit, but with an obligation to sell with the care of a ‘good seller’. The secured creditor may also appoint a manager of the property which would give the secured creditor indirect control over the property. One advantage of an enterprise pledge is that it is capable of being enforced notwithstanding the security provider being subject to formal insolvency proceedings (unlike a mortgage).</p>	<p><b>Pledge (joint stock company):</b>            The secured creditor may sell the pledged shares by way of private sale with no court involvement.</p> <p><b>Pledge (limited liability company):</b>            The secured creditor is able to request that the security provider ceases to hold shares in the debtor company (through a capital decrease procedure or a transfer of the shares to the other shareholders for value), provided that the initiation of such enforcement is registered with the appropriate authority. Thereafter, any sums that the debtor may otherwise have paid to the shareholder must be paid to the secured creditor in repayment of the amount owed.</p> <p><b>Pledge (general or limited partnership):</b>            The secured creditor is able to request that the partnership be dissolved provided that the initiation of such enforcement has been registered with the appropriate authority. Thereafter, any sums that may have otherwise been paid to the security provider must be paid to the secured creditor. The partnership will not be dissolved if it repays, or the remaining partners repay, the debt.</p>	<p><b>Mortgage:</b> Minimal to moderate timing. Issuing of the enforcement order and writ of execution tends to take two to six weeks. The bailiff’s preparation for the auction tends to take a further three to six weeks. The minimum time for the public auction is set at 30 days. Generally, fees are minimal to moderate, and will include court fees (up to 4% of the claim value) and bailiff fees (at 1.5% of the lower of (i) the sale price of the real estate or (ii) the claim value) (as applicable)). Generally more expensive than enforcement of an enterprise pledge.</p> <p><b>Enterprise pledge:</b> Minimal to moderate timing (usually takes one to three months) and quicker than enforcement of a mortgage. Minimal costs for registration of the enforcement, maintenance and valuation of the asset. Fees of the manager (if relevant) are additional.</p> <p>If a bailiff is engaged, additional fees will apply (similar to the bailiff fees for mortgage enforcement).</p>	<p><b>Pledge (joint stock company):</b>            Minimal timing (tends to take two to four weeks). Minimal costs for registration of the enforcement.</p> <p><b>Pledge (limited liability company):</b>            Moderate timing (tends to take at least three months). Minimal costs for registration of the enforcement.</p> <p><b>Pledge (general or limited partnership):</b>            Lengthy timing (takes at least seven months in cases involving liquidation of the partnership) and the actual duration of the procedure depends on the number of creditors and the financial status of the partnership. Minimal costs for registration of the enforcement.</p>

# Czech Republic



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Judicial sale:</b> The secured creditor may apply to court for an order to sell the real estate. If such an order is granted (which it ought to be if the security has become enforceable on its terms), the sales process would be administered by the court or a court-appointed executor and a separate court order is needed to carry out the sale itself.</p> <p><b>Public auction:</b> Once a secured creditor has enforceable title (a court order, arbitral award or notarial deed with the borrower's consent), the secured creditor can require that the property be sold by way of public auction administered by a licensed public auctioneer.</p> <p><b>Direct sale:</b> The secured creditor may exercise its power of sale without court involvement provided that the security document permits this.</p> <p><b>Appropriation:</b> The secured creditor may acquire the real estate itself provided that the security document permits this. The transfer will be made on the basis of a formal transfer agreement.</p>	<p><b>Judicial sale:</b> As for real estate (see adjacent).</p> <p><b>Public auction:</b> As for real estate (see adjacent).</p> <p><b>Direct sale:</b> As for real estate (see adjacent).</p> <p><b>Appropriation:</b> As for real estate (see adjacent).</p> <p><b>Collection of consideration:</b> The secured creditor has the right to collect all amounts otherwise paid to the shareholder (e.g. dividends) and apply such amounts in repayment of the debt outstanding.</p> <p><b>Exercise of shareholder's rights:</b> The secured creditor may exercise the voting rights of the shareholder (e.g. attend and vote at the general meeting) which can be used to change the directors.</p>	<p><b>Judicial sale:</b> Moderate timing (may take several months due to court involvement). Costs include (minimal) court fees for obtaining the order for sale, and moderate to considerable costs for the actual sale process (which will vary depending on the amount of the claim and include executioner remuneration or deposit requested by the executor).</p> <p><b>Public auction sale:</b> Moderate timing (may take several months due to potential court involvement). Moderate to considerable costs, which include fees for obtaining the enforceable title and further costs of the auction.</p> <p><b>Direct sale:</b> Minimal to moderate timing (usually one to two months), with minimal to moderate costs depending on requirements of sale agreed between the parties (e.g. valuation method, public announcement). Sale is subject to a 30 day period following notice to the debtor.</p> <p><b>Appropriation:</b> Minimal to moderate timing. The process may take one to two months including registration of the transfer in the real estate register (which is essential for transfer of ownership to the secured creditor) with minimal to moderate costs depending on satisfaction of the requirements agreed between the parties (e.g. method of valuation) and including the costs of registration.</p>	<p><b>Judicial sale:</b> As for real estate (see adjacent).</p> <p><b>Public auction:</b> As for real estate (see adjacent).</p> <p><b>Direct sale:</b> As for real estate (see adjacent).</p> <p><b>Appropriation:</b> Minimal timing (may take one to two weeks) with minimal to moderate costs depending on satisfaction of the requirements agreed between the parties (e.g. method of valuation).</p> <p><b>Collection of consideration:</b> Minimal timing and costs as process is likely to be limited to notification to the shareholders and the company.</p> <p><b>Exercise of shareholder's rights:</b> Minimal timing and costs as process is likely to be limited to notification to the shareholders and the company.</p>



# England and Wales



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Receivership:</b> The secured creditor may appoint a receiver to manage and sell the real estate, with no court involvement.</p> <p><b>Administration:</b> A qualifying floating charge holder may appoint an administrator to manage and control the real estate and all other assets of the chargor, with a power of sale.</p> <p><b>Mortgagee sale:</b> The secured creditor may exercise its power of sale over the real estate (with or without taking possession of the real estate).</p> <p><b>Administrative receivership:</b> The holder of a floating charge taken before 15 September 2003 may appoint an administrative receiver to manage and sell the real estate (and any other secured assets of the chargor), with no court involvement.</p>	<p><b>Receivership:</b> The secured creditor may appoint a receiver to manage and sell the shares, with no court involvement.</p> <p><b>Administration:</b> A qualifying floating charge holder (if a QFC has been taken over the shareholder(s), which is not always the case) may appoint an administrator to control the chargor's business/assets, including the shares and with a power to sell the shares.</p> <p><b>Mortgagee sale:</b> The secured creditor may exercise its power of sale over the shares.</p> <p><b>Change of directors:</b> The secured creditor may be able to change the directors of the company that owns the real estate (as a softer way than the other options to take control away from existing management and with a view to effecting a voluntary sale of the real estate).</p>	<p><b>Receivership:</b> Quick to initiate and with the time it will take to realise the value determined by what the receiver requires in order to be satisfied that he/she is obtaining the best price reasonably obtainable at that time for the real estate. Sale could be immediate (i.e. on a pre-packaged basis) or only after a number of months of marketing and/or after obtaining an independent valuation. Costs are minimal to moderate, depending on what is required to establish market value.</p> <p><b>Administration:</b> Timing is as it is for receivership above subject also to the administrator being satisfied that the sale is consistent with the purpose of the administration, with moderate costs depending on the process needed to establish market value. Generally more expensive than receivership.</p> <p><b>Mortgagee sale:</b> Timing and costs are as stated above for receivership.</p> <p><b>Administrative receivership:</b> Timing and costs are as stated above for receivership.</p>	<p><b>Receivership:</b> As for real estate (see adjacent).</p> <p><b>Administration:</b> As for real estate (see adjacent).</p> <p><b>Mortgagee sale:</b> As for real estate (see adjacent).</p> <p><b>Change of directors:</b> Could take one to four weeks depending on secured creditor's rights under the relevant security agreement and the company's Articles of Association (and assuming appropriate person(s) willing to take office as new director(s)), with minimal costs.</p>

# France



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Judicial foreclosure:</b> The secured creditor may request that the relevant court transfers the full ownership of the property to the creditor, following valuation by an expert (provided that if a loan is to an individual, the property is not the main residence of the debtor).</p> <p><b>Public auction:</b> The secured creditor may request that the relevant court orders the sale of the property by way of public auction, following valuation by an expert.</p> <p><b>Automatic appropriation:</b> If provided for in the security document, the secured creditor may have the right, following default by the security provider, to serve a notice to automatically effect the transfer of legal ownership of the real estate to the secured creditor.</p>	<p><b>Judicial foreclosure:</b> The secured creditor may request the relevant court to order a transfer of the ownership of the shares to the secured creditor.</p> <p><b>Public auction:</b> The secured creditor may request the relevant court to order a sale of the shares by way of public auction.</p> <p><b>Automatic appropriation:</b> If provided for in the security document, the secured creditor may be entitled to be granted legal ownership of the shares after the security provider defaults under the security document.</p>	<p><b>Judicial attribution:</b> Moderate to lengthy timing, approximately six to 12 months, with the main costs being the fees of the valuer. Other costs include bailiff’s fees, publication fees and legal fees (which are generally borne by the security provider).</p> <p><b>Public auction:</b> This process tends to be longer than judicial attribution, approximately 12 to 18 months. Minimal to moderate costs include auction notification costs, brokerage fees and fees of the expert appointed to value the real estate.</p> <p><b>Automatic attribution:</b> Minimal timing, but this method is likely to be the subject of litigation, with the main costs being the expert’s fees where value needs to be determined.</p>	<p><b>Judicial attribution:</b> Moderate to lengthy timing, approximately six to 12 months. Moderate costs consisting of court fees and, where needed, the fees of an expert. Where proceedings are straightforward this enforcement route tends to result in lower costs than those incurred with a public auction.</p> <p><b>Public auction:</b> This process takes longer than judicial attribution, approximately 12 to 18 months. Minimal to moderate costs include auction notification costs, brokerage fees and, where needed, fees of the expert appointed to value the pledged shares.</p> <p><b>Automatic attribution:</b> Minimal timing, but this method is likely to be the subject of litigation, with the main costs being the expert’s fees in cases where value needs to be determined.</p>

# Germany



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Insolvency proceedings:</b> The secured creditor may initiate insolvency proceedings against the security provider provided that the security provider is cash flow insolvent as a consequence of a payment default (and/or the amount of its liabilities exceeds the value of its assets). An insolvency administrator has the power to sell the real estate by way of private sale.</p> <p><b>Land charge enforcement:</b> The secured creditor may procure a forced sale of the property by way of a public auction after obtaining a court order or other special legal title.</p> <p><b>Forced administration:</b> The secured creditor may initiate forced administration proceedings to take control of the income generated by the real estate. The court appoints an official receiver who will collect rental payments, settle current costs and provide for maintenance of the real estate. Often used in parallel with land charge enforcement.</p>	<p><b>Share Pledge Enforcement:</b> Without the co-operation of the security provider, the only way the secured creditor can enforce a share pledge is through sale of the shares by way of a public auction. Any other method of enforcement, such as a private sale, would be available only if the secured creditor and security provider agree on such a procedure following an enforcement event.</p> <p>A lender would be entitled to bid for the shares in the auction, however this would require careful structuring to avoid real estate transfer tax (which is payable on share sales in certain circumstances) and/or equitable subordination.</p>	<p><b>Insolvency proceedings:</b> Moderate timing which depends on the complexity of the insolvency estate but generally it takes around six months from appointment of the administrator to completion of a sale.</p> <p>An insolvency administrator tends to take between 3% and 10% of the sale proceeds as a fee (with the amount negotiated between the administrator and secured creditor).</p> <p>Real estate transfer tax (of between 3.5% and 6.5%) is borne by purchaser.</p> <p><b>Land charge enforcement:</b> This is a lengthy process that tends to take 18 months to two years and could take longer. Also, unless the debtor has agreed to submit to immediate foreclosure, the secured creditor must declare the land charge due and payable with six months' written notice prior to enforcement. Costs will include valuation fees and court fees, the amount of which both vary according to the market value of the property.</p> <p><b>Forced administration:</b> Moderate timing, usually six months until commencement of administration. Receiver costs tend to be around 10% of the rental proceeds. In addition, court fees are payable, the amount of which will vary depending on market value of the property.</p>	<p><b>Share Pledge Enforcement:</b> Moderate to lengthy timing (tends to take three to 12 months) assuming that the secured creditor has an enforceable title, and may take up to six months longer if not, and that there is no requirement to apply to court for authority to enforce the security and no challenge is filed by the security provider.</p> <p>Costs are dependent on the market value of the shares and may include auctioneer's fees (which could include court bailiff, notary or publicly employed auctioneer fees). Notary's fees are usually the most significant cost.</p>

# Hungary



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Sale outside judicial enforcement:</b> The secured creditor may enforce its security by exercising its power of sale over the real estate. Such out-of-court enforcement may have been pre-agreed in the security documents and, if not, could be agreed at a later stage. The sale price must be the best reasonably obtainable. Residential properties may only be sold by way of public auction through the relevant authority.</p> <p><b>Judicial enforcement:</b> If the security agreement is incorporated into a notarial deed, the secured creditor would be entitled to require that the notary declare the security agreement to be enforceable and appoint a bailiff with a power of sale. A bailiff will arrange a sale by way of public auction. If the security agreement is made in the form of a private deed, the secured creditor would first need to apply to court to obtain an enforceable court order and thereafter a bailiff could be appointed with a power of sale. A minimum purchase price or method for determining the market value is usually specified in the security documents and if not, the secured creditor may decide the method of sale subject always to a duty to obtain the best price reasonably obtainable at the time.</p>	<p><b>Sale outside judicial enforcement:</b> As for real estate (see adjacent).</p> <p><b>Judicial enforcement:</b> As for real estate (see adjacent).</p>	<p><b>Sale outside judicial enforcement:</b> The timing of a sale will be for the parties to agree at the relevant time or as prescribed in the security document. Costs will include valuation costs and may for that reason be more expensive than judicial enforcement. Residential real estate can be valued upon the request of the secured creditor (usually in comparison to a central data base).</p> <p><b>Judicial enforcement:</b> Generally a lengthier procedure than the option above (can take up to 30 months and can be as short as six months).</p>	<p><b>Sale outside judicial enforcement:</b> As for real estate (see adjacent).</p> <p><b>Judicial enforcement:</b> Lengthy timing. The auction will take place publicly, and may take up to one year, depending on the market. The sale may be organised by a bailiff or a commercial third party adviser selected by the bailiff. Sales by third party advisers are generally faster, although such firms charge a higher service fee.</p>

# Italy



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Public auction:</b> The secured creditor can apply to court for an order that the property be sold by way of public auction. To start the procedure, the creditor must first obtain, by court order, “title for enforcement” (unless the loan agreement was in notarised form and included such title). Value of the property is determined by an expert appointed by the court. The court may appoint a custodian to manage the property pending sale.</p> <p><b>Appropriation:</b> As of 3 July 2016, secured creditors may have the right to appropriate the property if an event of a default has been continuing for longer than nine months. Such a right can be included in loan agreements executed after 4 May 2016 or by way of amendment in notarial form to existing loan agreements (and hence these new rules may be of limited benefit to potential purchasers of the current wave of Italian NPLs).</p> <p><b>Bankruptcy:</b> If the debtor is in insolvency, the court will appoint an independent receiver, who will, under the instructions of the court, arrange a sale of the property. If the loan qualifies as a “credito fondiario” loan, the secured creditor may still begin or continue enforcement action (as above) despite the debtor’s bankruptcy.</p>	<p><b>Public auction:</b> As for real estate (see adjacent).</p> <p><b>Pledgee sale:</b> The secured creditor may exercise its power of sale over the pledged shares in accordance with the relevant provisions of the pledge agreement and in accordance with applicable law. A pledge agreement tends to provide for the right of the pledgee to proceed with a private sale of the shares or with the appointment of an independent agent who will arrange a sale by way of public auction.</p> <p><b>Appropriation:</b> The secured creditor is entitled to ask the court to transfer the shares to it (at market value) in satisfaction of the loan. This option is not commonly used by secured creditors due to a preference to avoid owning shares and the various consequences, legal and accounting.</p>	<p><b>Public auction:</b> Lengthy timing which for sale is dependent on the relevant court and could take two to three years. The enforcement process may be quicker if the proceeds can be paid directly to the creditor pursuant to “<i>credito fondiario loans</i>” (long term loans secured by first ranking mortgages) rules. Moderate costs include valuation costs and custodian fees, the amount of which are both usually linked to the market value of the property.</p> <p><b>Appropriation:</b> This process (which entails the secured creditor: (i) making a request to court that an appraiser be appointed to determine the value of the property; and (ii) appropriating the property at a price equal to the value so determined) ought to be quicker than the other two options. The debtor may file oppositions at court but this would not suspend the appropriation procedure.</p> <p><b>Bankruptcy:</b> Sales under bankruptcy procedures tend to take longer than those by way of public auction. Precise timing will depend on the number of different creditors and can take up to five years.</p>	<p><b>Public auction:</b> Lengthy timing which can vary between different courts and tends to take one to two years. Moderate costs will include valuation and auction costs.</p> <p><b>Pledgee sale:</b> Moderate to lengthy timing to sell, usually less than one year, unless the security provider or any of its other creditors challenge the enforcement. Such challenges are common in Italy and can significantly lengthen the process. Moderate costs (including valuation costs) and generally cheaper than a public auction. Costs may increase if an agent is appointed for the sale of the shares particularly if the sale process is complex.</p> <p><b>Appropriation:</b> Moderate timing (usually around six months) unless there are challenges by the debtor (in which case the process can take much longer). Costs tend to be relatively low and generally lower than the costs of the other enforcement options, although as noted adjacent, appropriation of shares is rarely used by secured creditors.</p>

# Luxembourg



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Forced sale:</b> The secured creditor may exercise its right of “forced sale” (without the approval of the debtor) over the property, to the extent expressly provided for in the security agreement (“<i>clause de voie parée</i>”).</p> <p>If there is no “<i>clause de voie parée</i>”, the sale must proceed by way of a formal foreclosure procedure before the relevant local court. This option is not common practice in Luxembourg.</p>	<p><b>Contractual appropriation:</b> The secured creditor may exercise its power of appropriation over the pledged shares. The method of valuation of such shares may be prescribed in the security document.</p> <p><b>Sale:</b> The secured creditor may enforce the sale of the pledged shares by way of a private sale or a public sale.</p> <p><b>Judicial appropriation:</b> The secured creditor may apply to the court for an order that the title to the shares be transferred to the secured creditor in lieu of payment of the outstanding loan.</p> <p><b>Voting rights:</b> The secured creditor may exercise the voting rights attached to the shares (if provided for in the security document). The security provider will remain the legal owner of the shares.</p> <p><b>Change of directors:</b> Upon contractual or judicial appropriation, the secured creditor will own the pledged shares and may be able to change the directors of the company that owns the real estate to take control away from existing management and to look to effect a voluntary sale of the real estate. This is also achievable by the secured creditor exercising its voting rights under the share pledges (without taking ownership) where permitted.</p>	<p><b>Forced sale:</b> If there is “<i>clause de voie parée</i>”, minimal timing to sell (could be three to six weeks). Generally, a formal demand must be served on the security provider at least 30 days prior to the sale. The debtor may challenge the choice of notary chosen by the secured creditor. If no agreement is reached, the notary will be designated by the competent local judge. The notary announces the sale at least 15 days prior to the sale.</p> <p>If there is no “<i>clause de voie parée</i>”, timing will be much longer and will be determined by the relevant judicial foreclosure procedure.</p> <p>Costs will include taxes, registration fees, notary’s fees (which vary depending on the principal amount of the loan) and court costs (if a formal foreclosure procedure is used).</p>	<p><b>Contractual appropriation, sale and judicial appropriation:</b> After a default, the secured creditor is immediately able to enforce the security over the shares without any prior notice to the security provider or any other formalities, except if expressly provided otherwise in the security document.</p> <p>Minimal to moderate costs depending on the extent of legal advice required (based on the complexities of the security).</p> <p><b>Voting rights:</b> Minimal time and costs.</p> <p><b>Change of directors:</b> Minimal to moderate costs (lower than appropriation and sale methods above) and minimal timing of one to four weeks.</p>

# Montenegro



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Out-of-court enforcement:</b> Unless the security document specifies that court proceedings must be used (which is unusual in most bank real estate financings), the secured creditor may exercise its power of sale over the real estate, by way of private sale or public auction. The real estate must be sold for its market value.</p> <p><b>Court proceedings:</b> The secured creditor may apply to the court for an order that the property be sold, either by way of private sale or public auction. The court will generally grant the requested order subject to being satisfied that the security has become enforceable. The reserve price in the case of a public auction or the sale price in the case of a private sale must not be lower than the market value of the real estate (as determined by a recent independent valuation). In the event that the first two auctions are unsuccessful, the secured creditor may opt to appropriate the property itself and, if it does so, the loan would be deemed to have been repaid by an amount equal to 50% of the property value.</p>	<p><b>Out-of-court enforcement:</b> As for real estate (see adjacent).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>	<p><b>Out-of-court enforcement:</b> Moderate timing (tends to take at least 60 days). Fees will include public enforcer fees (1-5% of the collected amounts in enforcement proceedings plus a fee for monthly preparation and actions conducted during the enforcement proceedings), notarial fees (dependent on market value of property but capped at EUR 5,000) and land registry fees.</p> <p><b>Court proceedings:</b> Moderate timing (tends to take at least 60 days). Fees will include court fees, land registry fees and notarial fees (dependent on market value of property but capped at EUR 5,000). Generally, this option is slightly cheaper than out-of-court enforcement.</p>	<p><b>Out-of-court enforcement:</b> As for real estate (see adjacent).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>

# Netherlands



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Public auction:</b> The secured creditor may require the sale of the property by way of public auction. The public auction must take place before a notary (who will manage the sale in consultation with the secured creditor and in accordance with local law). No court involvement is required.</p> <p><b>Private sale:</b> The secured creditor may require the sale of the real estate by way of private sale with the consent of the court. The secured creditor must (post-default) submit an unconditional sale and purchase agreement to the relevant local court for court approval before the sale can proceed. This method would be used where a private sale could reasonably be considered to generate higher sale proceeds than a public auction.</p>	<p><b>Public sale:</b> The secured creditor may apply to the court to initiate a public auction of the shares. Not commonly used in the Netherlands, merely because some onerous provisions of the Dutch Financial Supervision Act may apply in relation to offering securities to the public.</p> <p><b>Private sale:</b> The secured creditor may either: (a) sell the shares to a third party with the consent of the court or the consent of the security provider; or (b) purchase the shares itself at a value determined by the court.</p> <p><b>Voting rights:</b> The secured creditor may exercise voting rights attached to the shares (provided that there are no restrictions in the relevant company's Articles of Association, and the terms of the security document permit) to pass resolutions as pledgee. In particular, through exercising the voting rights, the secured creditor may be able to change the directors of the company to take control away from existing management and to effect a voluntary sale of the real estate. The secured creditor should be aware of the risks of being considered a shadow director.</p>	<p><b>Public auction:</b> Moderate timing (may take up to four months) with moderate costs depending on the complexity of the process needed to establish market value. In general, any transfer taxes are payable by the purchaser.</p> <p><b>Private auction:</b> Minimal to moderate timing (may take six weeks to three months), depending on the availability of the court, with moderate costs depending on the process needed to establish market value. In general, any transfer taxes are payable by the purchaser.</p>	<p><b>Public sale:</b> Moderate timing (may be three months) with moderate costs depending on the process needed to establish market value and whether court involvement is required. Any transfer taxes are payable by the purchaser.</p> <p><b>Private sale:</b> Minimal time if the security provider consents to the sale. A non-consensual sale (whether by private sale to a third party or to the secured creditor) could be achieved in a minimum of six weeks but could take up to three months depending on court availability, with moderate costs depending on the process needed to establish market value. Any transfer taxes are payable by the purchaser.</p> <p><b>Voting rights:</b> Minimal time needed to pass a resolution and with minimal costs, (assuming there is no challenge by the debtor). If changing the directors, it could take longer if the management board is hostile.</p>



# Poland



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Court proceedings:</b> After suing the debtor for non-payment and obtaining an order against the debtor for the amount due, the secured creditor must apply to court for an order allowing it to appoint an enforcement officer to sell the property by way of public auction.</p> <p>It may be that prior to first utilisation of the loan, the debtor made the required statement (in a notarial deed) such that the secured creditor can apply to court immediately after a payment default for an order allowing it to appoint an enforcement officer, without first suing the debtor for the overdue amount.</p> <p>The enforcement officer is a local public official. Enforcement of mortgages may only be carried out by an enforcement officer operating in the area where the property is located.</p>	<p><b>Court proceedings:</b> The process is substantially the same as for real estate (see adjacent).</p> <p><b>Seizure:</b> The secured creditor may seize the shares, without any court involvement, if the shares are subject to a registered pledge or a financial pledge, and only if the pledge agreement provides for such a method of enforcement. In cases involving a registered pledge, the secured creditor may only seize the shares seven days after issuing an enforcement notice on the debtor.</p> <p><b>Sale of shares:</b> The secured creditor may appoint an enforcement officer or a notary to sell shares subject to a registered pledge by way of public auction. The auction must be held within 14 days after the date on which the creditor files an application to the enforcement officer or notary. In cases involving shares secured by way of a financial pledge, the pledged shares may be sold by way of a public auction or a private sale. Usually the terms of the auction or sale are pre-determined in the pledge agreement or consensually between the parties.</p>	<p><b>Court proceedings:</b> Lengthy timing (could take six to 24 months) with the precise timing usually determined by the length of time it takes for the valuation process and the duration of the court proceedings. The most significant costs are usually the enforcement fee (generally 15% of enforcement proceeds subject to a statutory cap equal to 30 times the average monthly salary (at the time of writing, this is approximately EUR 26,600)) and the valuation costs.</p>	<p><b>Court proceedings:</b> As for real estate (see adjacent).</p> <p><b>Seizure:</b> Tends to be a quick process (unless the pledge agreement states that the enforcement needs to be preceded by obtaining a valuation). Costs are minimal, save for the valuation costs if applicable.</p> <p><b>Sale of shares:</b> Minimal to moderate timing. In cases involving a registered pledge, the public auction must take place no later than 14 days after the application to the enforcement officer or notary is filed. There are moderate costs, comprising the enforcement officer's fees or notary's fees and their expenses. In cases involving a financial pledge, the duration of the public auction or private sale, as well as the costs involved, will vary greatly depending on a number of factors, most notably, the number of potential purchasers and the need to obtain a valuation.</p>

# Portugal



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Mandate of sale:</b> The secured creditor may appoint an administrator to control and manage the real estate, and all other assets of the security provider, with a power of sale. Terms of the mandate of sale are negotiated between the secured lender and the asset owner at the time that the security is granted.</p> <p><b>Judicial sale:</b> The secured creditor may exercise its power of sale over the property by way of a judicial sale, with court approval.</p> <p><b>Appropriation:</b> The secured creditor may take possession of the property as repayment (or part repayment, as applicable) of the amount owed by the security provider. This method requires prior court approval.</p>	<p><b>Mandate of sale:</b> The secured creditor may appoint an administrator to control and manage the shares, and all other assets of the security provider, with a power of sale. Terms of the mandate of sale are negotiated between the secured lender and the asset owner at the time that the security is granted and may be incorporated into a pledge or financial pledge.</p> <p><b>Pledge:</b> If provided for in the security document, the secured creditor may exercise its power of sale over the shares with court approval.</p> <p><b>Financial pledge:</b> This method is available only if the secured creditor is a financial institution and if expressly provided for in the security document. The secured creditor may exercise its power of sale over the shares by way of private sale without court approval.</p> <p><b>Appropriation:</b> The secured creditor may take possession of the shares as repayment (or part repayment, as applicable) of the amount owed by the security provider. This method requires prior court approval.</p>	<p><b>Mandate of sale:</b> An estimate on timing is difficult as precise timing will depend on the complexity of the contractual terms in the document granting the security. Usually this method entails minimal costs, with the most significant cost being tax which is payable by the buyer.</p> <p><b>Judicial sale:</b> Moderate to lengthy timing (usually at least six months but could take up to 36 months). Costs can be moderate to high and will include court fees and enforcement agent's fees (if applicable).</p> <p><b>Appropriation:</b> As for judicial sale (see adjacent).</p>	<p><b>Mandate of sale:</b> An estimate on timing is difficult as precise timing will depend on the terms set out in the security document. Generally, sales are completed within three to six months. Usually this method incurs minimal costs, with the most significant cost being tax which is payable by the buyer.</p> <p><b>Pledge:</b> Moderate to lengthy timing (usually at least six months but could take up to 36 months). Minimal to moderate costs depending on how the sale procedure is prescribed in the security document and the market value of the shares. Costs will include court fees.</p> <p><b>Financial pledge:</b> Minimal to moderate timing (on average, between one to six months, depending on the terms agreed in the security document). Minimal costs as the terms of enforcement are contractually established beforehand. Most notably the valuation mechanism is usually pre-agreed and therefore no valuation fees are usually necessary.</p> <p><b>Appropriation:</b> Moderate to lengthy timing (at least six months but could take up to 36 months). Costs can be moderate to high and will include court fees and enforcement agent fees (if applicable).</p>

# Romania



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Court proceedings:</b> The secured creditor must first engage an enforcement officer (a private practitioner). On a payment default by the debtor, the enforcement officer will apply to the court on behalf of the secured creditor for an order to approve the enforcement.</p> <p>The sale of the real estate can be amicable (where the debtor manages the sale itself with prior approval of the creditor and the enforcement officer), direct (when both parties consent, the sale can be completed directly to a buyer offering at least market value price), or by auction (unless there is an agreement to an amicable or direct sale, the real estate asset must be sold by way of public auction).</p>	<p><b>Court proceedings:</b> As for real estate (see adjacent), the secured creditor must first engage an enforcement officer to apply (on its behalf) to the court for an order to approve the enforcement.</p> <p>Once an enforcement procedure has been initiated by the secured creditor, the enforcement officer may proceed with the sale of the shares by way of amicable sale or, if necessary, public auction. In the latter case, a tender book should be made available by the enforcement officer.</p>	<p><b>Court proceedings:</b> For an amicable or direct sale, the timing should be shorter and costs lower than for a public auction, depending on the availability of a suitable purchaser. Assuming there are no objections or challenges, the minimum duration is usually 25 to 30 days from the secured creditor’s initial request (for an amicable or direct sale) or up to 100 days (in the case of a public auction). Otherwise the process of enforcement is lengthy and can be delayed (the enforcement may be suspended for six months or more on a challenge by the security provider). Such delays will inevitably result in an increase in costs.</p> <p>Costs will include enforcement officer fees, Land Registry fees, court fees, valuation fees and legal fees.</p>	<p><b>Court proceedings:</b> For an amicable sale, the timing should be shorter and costs lower than for a public auction, depending on the availability of a suitable purchaser. Assuming there are no objections or challenges (including with respect to the tender book), the minimum duration is usually 25 to 30 days from the secured creditor’s initial request (for an amicable or direct sale) or 50 to 70 days (in the case of a public auction). Otherwise the process of enforcement is lengthy and can be delayed (the enforcement may be suspended for six months or more on a challenge by the security provider). Such delays will inevitably result in an increase in costs.</p> <p>Market practice has shown that a mortgage over shares in joint-stock companies can be enforced successfully within a reasonable time and with reasonably modest costs. Mortgages over shares in limited liability companies are much more difficult to enforce and therefore more costly.</p> <p>Where the shares are listed, the sale is completed in accordance with the rules of the regulated market.</p>

# Russia



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Court proceedings:</b> The secured creditor may apply for a court order to sell the property by way of a public auction carried out by a bailiff.</p> <p><b>Sale:</b> The secured creditor may (if the security document was signed in front of a Russian notary and notarised) exercise its power of sale either by way of (i) a public auction carried out by an auctioneer appointed by the secured creditor or (ii) appropriation of the property by the secured creditor.</p>	<p><b>Court proceedings:</b> The secured creditor may apply for a court order to sell the shares by way of a public auction carried out by a bailiff.</p> <p><b>Sale:</b> The secured creditor may (if the security document was signed in front of a Russian notary and notarised) exercise its power of sale either by way of: (i) a public auction carried out by an auctioneer appointed by the secured creditor or (ii) appropriation of the shares by the secured creditor or (iii) a private sale to a third party.</p>	<p><b>Court Proceedings:</b> Lengthy process (could take 12 to 18 months). Costs will include court fees (the amount of which are set by reference to the claim amount and tend to be relatively modest) and ancillary costs such as legal fees.</p> <p><b>Sale:</b> Moderate to lengthy timing. Provided that the security provider co-operates, it may only take three to six months but generally takes up to one year. Costs will depend on the method of realisation chosen by the secured creditor (a public auction or appropriation) and will include the fees of professional advisers involved. Unless any complications arise, this is a less expensive procedure than court proceedings.</p>	<p><b>Court Proceedings:</b> Lengthy process (could take 12 to 18 months). Costs will include court fees (limited to the claim value) and ancillary costs such as legal fees.</p> <p><b>Sale:</b> As for sale of real estate (see adjacent).</p>

# Scotland



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Administration:</b> A qualifying floating charge holder may appoint an administrator to manage and control the real estate (and all other assets of the chargor), with a power of sale.</p> <p><b>Standard Security holder sale:</b> A secured creditor with the benefit of a Standard Security (the main type of mortgage deed used in Scotland) may exercise its power of sale over the real estate (with or without taking possession of the real estate). N.B. in Scotland there is no concept of a fixed charge receiver.</p> <p><b>Administrative receivership:</b> The holder of a floating charge taken before 15 September 2003 may appoint an administrative receiver to manage and sell the real estate (and any other assets of the chargor), with no court involvement.</p>	<p><b>Administration:</b> A qualifying floating charge holder (if a QFC has been taken over the shareholder(s), which is not always the case) may appoint an administrator to control the chargor's business/ assets, including the shares and with a power to sell the shares.</p> <p><b>Shareholder sale:</b> If there is a perfected share pledge in place and the terms are breached, the secured creditor may serve notice on the security provider and exercise all rights and powers conferred on the holder of the shares, including the right of sale. Not all share pledges are perfected because perfection requires that the shares be registered in the secured creditor's name (however, the share pledge would need to be perfected before this enforcement option could be utilised).</p> <p><b>Administrative receivership:</b> The holder of a floating charge taken before 15 September 2003 may appoint an administrative receiver to manage and sell the shares.</p> <p><b>Change of directors:</b> The secured creditor may be able to change the directors of the subsidiary company, depending on the powers conferred by the share pledge.</p>	<p><b>Administration:</b> Quick to initiate and with the time it will take to realise the value determined by what the administrator requires in order to be satisfied that he/she is obtaining the best price reasonably obtainable at that time for the real estate and that the sale is consistent with the purpose of the administration. Sale could be immediate (i.e. on a pre-packaged basis) or only after a number of months of marketing and/or after obtaining an independent valuation. Costs are minimal to moderate, depending on what is required to establish market value.</p> <p><b>Standard Security holder sale:</b> Moderate timing (usually two to three months) as the secured creditor may be required to serve a calling-up notice on the security provider, giving the debtor two months to pay the debt owed before security can be enforced. This notice may be waived for commercial real estate. Minimal to moderate costs depending on whether the real estate is residential (in which case there are likely to be additional costs incurred due to complexity of enforcement).</p> <p><b>Administrative receivership:</b> Timing and costs are as stated above for administration.</p>	<p><b>Administration:</b> As for real estate (see adjacent).</p> <p><b>Shareholder sale:</b> The secured creditor may have to serve notice of two to three weeks on the security provider (depending on the terms of the share pledge). After notice is served the secured creditor can exercise the right of sale as holder of the shares. Minimal time and costs involved.</p> <p><b>Administrative receivership:</b> As for real estate (see adjacent).</p> <p><b>Change of directors:</b> Could take one to four weeks depending on shareholder's rights under the share pledge and the company's Articles of Association (assuming appropriate person(s) are willing to take office as new director(s)), with minimal costs.</p>

# Serbia



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Out-of-court enforcement:</b> Unless the security document specifies that court proceedings must be used (which is unusual in most bank real estate financings), the secured creditor may exercise its power of sale over the real estate, by way of private sale or public auction. The real estate must be sold for its market value.</p> <p><b>Court proceedings:</b> The secured creditor may apply to the court for an order that the property be sold, either by way of private sale or public auction. The court will generally grant the requested order subject to being satisfied that the security has become enforceable. The reserve price in the case of a public auction or the sale price in the case of a private sale must not be lower than the market value of the real estate (as determined by a recent independent valuation). In the event that the first two auctions are unsuccessful, the secured creditor may opt to appropriate the property itself and, if it does so, the loan would be deemed to have been repaid by an amount equal to 50% of the property value.</p>	<p><b>Out-of-court enforcement:</b> As for real estate (see adjacent).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>	<p><b>Out-of-court enforcement:</b> Moderate timing (tends to take at least 60 days). Fees will include public enforcer fees (dependent on the case value and collected in enforcement proceedings (but capped at approx. EUR 16,000) plus a fee for monthly preparation and actions conducted during the enforcement proceedings), notarial fees (dependent on market value of property but capped at EUR 5,000) and land registry fees.</p> <p><b>Court proceedings:</b> Moderate timing (tends to take at least 60 days). Fees will include court fees, land registry fees and notarial fees (dependent on market value of property but capped at EUR 5,000). Generally, this option is slightly cheaper than out-of-court enforcement.</p>	<p><b>Out-of-court enforcement:</b> As for real estate (see adjacent).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>

# Slovakia



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Mortgagee sale:</b> A secured creditor may exercise its power of sale over the real estate without any court involvement.</p> <p><b>Bankruptcy:</b> A secured creditor may request the court to declare bankruptcy of the debtor provided that the relevant statutory requirements are met. During the bankruptcy proceedings, an administrator will arrange for the sale of the real estate with sale proceeds being paid to the creditor net of costs.</p>	<p><b>Mortgagee sale:</b> As for real estate (see adjacent).</p> <p><b>Bankruptcy:</b> As for real estate (see adjacent).</p>	<p><b>Mortgagee sale:</b> Moderate to minimal timing (tends to be five to six weeks, including a mandatory 30 days' statutory period between service of a default notice by the secured creditor and completion of the sale of the real estate). The process may take longer, depending on whether the secured creditor is satisfied that it is obtaining the best price reasonably obtainable at that time and depending on the procedure needed to establish market value.</p> <p><b>Bankruptcy:</b> Moderate to lengthy timing. The minimum time needed for the sale is six months, but may take even longer due to the statutory process requirements of the bankruptcy proceedings.</p>	<p><b>Mortgagee sale:</b> As for real estate (see adjacent).</p> <p><b>Bankruptcy:</b> As for real estate (see adjacent).</p>

# Slovenia



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Notary sale:</b> If the security was created by way of a directly enforceable notarial deed the creditor may require that a notary carries out a sale of the property. The notary will notify the debtor that unless the debt is paid before a purchase agreement is concluded with the highest bidder, the property will be sold by way of public auction. The debtor has limited objection rights. This method of enforcement is relatively new and has been little-used at the time of writing.</p> <p><b>Court proceedings:</b> A holder of a directly enforceable notarial deed may apply to the court for an order that the property be sold by way of public auction. If a secured creditor does not hold such a deed, it must first obtain a final judgment against the security provider for the amount due. On the court being satisfied of default by the debtor, the court will set a deadline for repayment (usually within 15 days). If the debtor fails to pay on time, the secured creditor may then apply to the court for an order of sale.</p>	<p><b>Private sale:</b> The parties may agree that the secured creditor may exercise a power of sale over the pledged shares, without any court involvement. Existence of such an agreement is presumed unless one party is an individual (in which case, the agreement must be in writing and ideally should be entered into at the time that the security is granted). The shares may be sold either by way of public auction or private sale (at the best price reasonably obtainable).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>	<p><b>Notary sale:</b> A notarial sale is generally quicker and cheaper than court proceedings. The secured creditor must provide (and pay for) a valuation of the real estate and pay to the notary a fee for sale costs in an amount equal to 4% of the opening price.</p> <p><b>Court proceedings:</b> Lengthy process if a final judgment first has to be obtained as this can take up to two years. Once obtained, the sale process itself may take up to 12 months, and could take longer if there are any challenges from the debtor or auctions are unsuccessful. Costs include court fees (the amount of which is dependent on the value of the real estate), legal fees and valuation fees.</p>	<p><b>Private sale:</b> Minimal to moderate timing. Usually quicker and cheaper than court proceedings (exact timing may vary depending on the type of shares being sold and current market conditions). Valuation costs will apply.</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>



# Spain



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Judicial sale:</b> The secured creditor may apply to the court for an order that the real estate be sold by way of public auction. Bidders must deposit 5% of the property value in advance of the auction with the court.</p> <p><b>Non-judicial sale:</b> If provided for in the security document, the secured creditor may exercise its power of sale over the property by way of a public auction before a notary.</p>	<p><b>Judicial sale:</b> The secured creditor may apply to court for an order that the shares be sold by way of public auction or an auction conducted by a notary. Bidders must deposit 5% of the value of the shares in advance of the auction with the court. If the secured shares are listed, the supervising authority must be informed and the execution must be carried out in accordance with the regulations applicable to secondary markets. If the secured shares are not listed, preferential acquisition rights must be observed and a notary mandated by the court must conduct the auction.</p> <p><b>Non-judicial sale:</b> If provided for in the security document, the secured creditor may exercise its power of sale over the shares by way of public auction before a notary. As for judicial sale, the manner of execution of the sale will depend on whether the shares are listed or not.</p>	<p><b>Judicial sale:</b> Moderate to lengthy timing, approximately six to eight months. Minimal to moderate costs mostly consisting of court costs, the amount of which depends on the market value of the property.</p> <p><b>Non-judicial sale:</b> Moderate timing, approximately two to four months. Moderate costs depending on the complexity of the process needed to establish market value which must be agreed with the notary. Generally more expensive than a judicial sale, as the fees of the notary must be included.</p>	<p><b>Judicial sale:</b> Moderate timing, approximately three to five months. Minimal to moderate costs mostly consisting of court costs, the amount of which depends on the market value of the shares.</p> <p><b>Non-judicial sale:</b> As for real estate (see adjacent).</p>

# Turkey



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Foreclosure (without a court order):</b>            A secured creditor may apply directly to the execution office for a payment order. The payment order will require repayment of the debt and state that the foreclosure proceedings will continue if the debt is not paid or an objection is not lodged within the time period stated on the payment order. If the debtor fails to repay, the property will be sold by way of public auction. If the debtor objects to the payment order, any such dispute may need to be resolved by the court, which will suspend the foreclosure proceedings until the final order of the court is issued. The debtor will benefit from more objection rights than they would if the secured creditor had first obtained a court order for foreclosure (see below).</p> <p><b>Foreclosure (with a court order):</b>            A secured creditor may apply to the court for an order that (i) there is a debt due and owing, (ii) that security/additional security should be provided by the debtor or (iii) for the performance of an obligation. Once obtained, the secured creditor must lodge the court order with the relevant execution office and request that an execution order be served on the debtor for foreclosure. Thereafter the procedure is as for foreclosure (without a court order), save that under this option, the debtor may have limited objection rights.</p>	<p><b>Foreclosure (private company):</b>            As for real estate (see adjacent).</p> <p><b>Foreclosure (public company):</b>            Public listed shares are registered with the Central Registry Agency (“<b>CRA</b>”) (<i>Merkezi Kayıt Kuruluşu A.Ş.</i>) and any transactions such as transfer, pledge establishment etc. must be carried out via instructions to an intermediary institution (e.g. Citi, who would then undertake the transaction at the CRA).</p> <p>A creditor may be secured either by way of taking ownership of the shares on day one or by establishing a pledge over the shares.</p> <p>If the secured creditor owns the shares, it may either set-off the value of the shares against the debt owed to it, or it can directly sell the shares on the stock exchange (at or above market value).</p> <p>If the creditor is secured with a pledge, it has a statutory right to sell or (if there is an explicit provision in the pledge agreement) take ownership of the pledged shares listed on the stock exchange (in both cases, at or above market value), without the need to apply to the execution office. The secured creditor can use such rights by submitting an instruction to an intermediary institution.</p>	<p><b>Foreclosure (without a court order):</b>            Lengthy timing. Foreclosure proceedings are usually completed within eight months, provided that the debtor does not raise any objections. If the debtor does exercise its objection rights, the proceedings may take up to two to three years (plus time for any necessary court proceedings).</p> <p>A nominal fixed fee is charged to initiate the process and a fee corresponding to 0.5% of the outstanding debt is also charged. At the end of the foreclosure proceedings, additional fees are calculated in accordance with the sale price of the mortgaged assets.</p> <p><b>Foreclosure (with a court order):</b>            Timing is as for foreclosure (without a court order), although in this instance, the debtor has limited objection rights.</p> <p>A nominal fixed fee is charged to initiate the process. At the end of the foreclosure proceedings, additional fees are calculated in accordance with the sale price of the mortgaged assets.</p>	<p><b>Foreclosure (private company):</b>            Moderate timing. Provided that the debtor does not raise any objections, foreclosure proceedings are usually completed within five to six months. However, if the debtor exercises its objection rights, the proceedings may take up to one to two years (plus time for any necessary court proceedings).</p> <p>A nominal fixed fee is charged to initiate the process and a fee corresponding to 0.5% of the outstanding debt amount is also charged. At the end of the foreclosure proceedings, additional fees are calculated in accordance with the sale price of the pledged shares.</p> <p><b>Foreclosure (public company):</b>            Minimal timing (may be completed within one day) and there are usually no costs for the sale and transfer of ownership.</p>

# Ukraine



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MAIN ENFORCEMENT OPTIONS		TIMING AND COSTS	
REAL ESTATE	SHARES	REAL ESTATE	SHARES
<p><b>Sale:</b> If it is expressly provided for in the security agreement, the secured creditor may enforce security over the real estate without court involvement. The secured creditor may either take possession of the real estate itself or exercise its power of sale by way of public auction or private sale.</p> <p><b>Notarial writ:</b> A secured creditor may apply to a notary for a notarial writ of execution (which is endorsed on the original executed security agreement). Actual enforcement of the notarial writ of execution may only be conducted by the State Enforcement Service of Ukraine.</p> <p><b>Court proceedings:</b> Secured creditor may enforce security over the real estate in the relevant courts which have exclusive jurisdiction over the matters involving real estate. Typically, the real estate will be sold by way of public auction. If provided for in the security agreement and ordered by the court, secured creditor may take possession of the real estate itself or sell it.</p>	<p><b>Sale:</b> If it is expressly provided for in the security agreement, the secured creditor may enforce security over the shares without court involvement. The secured creditor may either take possession of the shares itself or exercise its power of sale by way of public auction or private sale.</p> <p><b>Notarial writ:</b> If the security agreement is notarised, the secured creditor may apply to a notary for a notarial writ of execution.</p> <p><b>Court proceedings:</b> As a general rule, the sale of shares enforced by way of court proceedings will be sold by public auction, unless otherwise ordered by the court.</p>	<p><b>Sale:</b> Duration will depend on the agreed terms and conditions of the security agreement and the degree of co-operation of the security provider. Minimal costs compared to the options below.</p> <p><b>Notarial writ:</b> A notarial writ of execution may only be obtained 30 days after a cure notice is sent to the borrower and any other security provider. The duration of actual enforcement by the State Enforcement Service of Ukraine should not take longer than six months, but in practice timing will depend on the workload and co-operation of the bailiffs. Costs for notarial writ will include state duty (up to EUR 60) and notary fees which are subject to agreement with a notary (usually 1% of the value of the property but may be a lower percentage if the value of the property is significant).</p> <p><b>Court proceedings:</b> Moderate to lengthy timing, as proceedings may take up to three months, and could take up to seven months if the court's judgement is appealed. Court fees apply, the amount of which depends on the value of the real estate. For a property with a value of EUR 5 million, we would expect the court fee to be up to: (i) EUR 7,500 (in the first instance court), (ii) EUR 8,200 (in the court of appeal) and (iii) EUR 9,000 (in the supreme court).</p>	<p><b>Sale:</b> Duration will depend on the agreed terms and conditions of the security agreement and the degree of co-operation of the security provider. Minimal costs if compared to notarial writ and court proceedings.</p> <p><b>Notarial writ:</b> As for real estate (see adjacent).</p> <p><b>Court proceedings:</b> As for real estate (see adjacent).</p>

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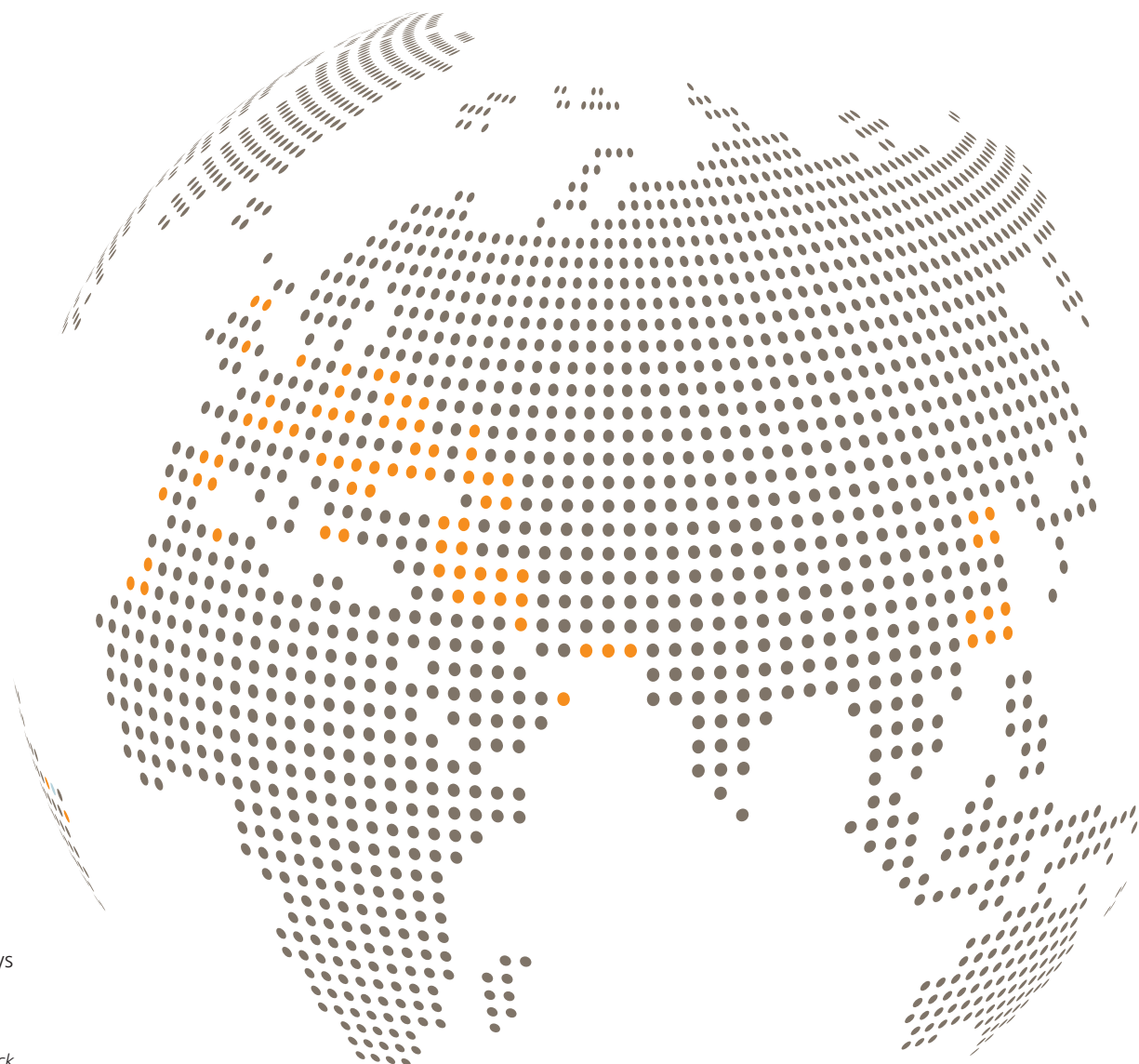
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