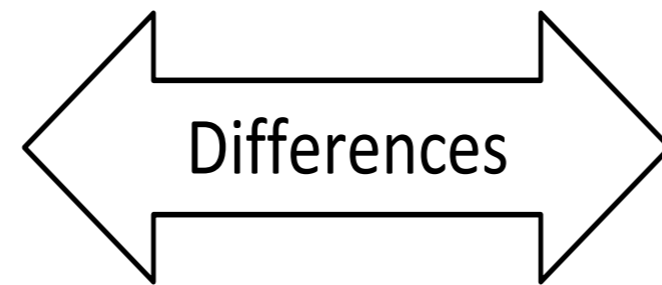


Enforcement as a public proceeding

Enforcement

- Enforcement of an individual right or claim
- Priority-principle (first come, first serve)
- subject to the Code of Civil Procedure (ZPO)/ Compulsory Auction of Im movable Property Act (ZVG)



Insolvency Proceedings

- Enforcement of the entirety of claims against the debtor
- Initiated by court order after request of either party in case the debtor's solvency is endangered (§ 13 InsO)
- Principle of equal fulfillment
- subject to the Insolvency Code (InsO)

Requirements

General Provisions, §§ 702 – 804 ZPO

- Enforcement possible based on final judgment, § 704 ZPO
→ Enforcement title
- Creditor's request for act of enforcement at the competent court, § 753 ZPO
→ Attached to request: execution copy of court certificate of enforceability, §§ 724, 725 ZPO
- Debtor needs to be served with the enforcement title before enforcement takes place, § 750 ZPO

Enforcement Measurements

Enforcement against movable property, §§ 803 – 827 ZPO

Executed by an court-appointed enforcement officer, § 753

- Jurisdiction through the enforceable execution copy

Requirements:

- Creditor's request for enforcement, § 753 ZPO
- Competent enforcement body = enforcement officer
- Movable property = objects, § 90 BGB
- Act of enforcement, § 808 ZPO = attachment of movable object from debtor, § 808 I ZPO, or third parties, § 809 ZPO, through the enforcement officer.
- Movable object may not be exempted from attachment, §§ 811 ff. ZPO

Enforcement against claims and other property rights, §§ 828 – 863 ZPO

Executed by the competent execution court, § 828 I ZPO

- local court (Amtsgericht, AG) with which the debtor has his general venue in Germany, § 828 II ZPO

Requirements:

- Creditor's request for enforcement against claim or other property right
- Competent execution court, § 828 I ZPO, will check for presence of enforcement requirements and possible exemption from attachment.
- Act of enforcement:
 - Attachment of debtor's claim against third-party debtor, § 829 I ZPO
 - Attachment of other property right, § 857 I ZPO
- Transfer of claim or other property right to creditor, §§ 835, 844 ZPO