
Court Enforcement Officers's Office Expenditures and Maintenance Costs Management

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Abstract:

Purpose: Presentation of the current state of expenses and costs of the office under the Court Enforcement Officers Act and the Enforcement Costs Act.

Design/Methodology/Approach: The study uses the method of literature analysis, the method of researching legal acts and the method of descriptive statistics.

Findings: As a result of the amendments to the laws, the short-term objective was only partially achieved by increasing supervision. The laws do not provide the transparency for more efficient and effective enforcement. The effectiveness of enforcement is limited by the provisions of Art. 152 of the Court Enforcement Officers Act. In fact, they cause the liquidation of efficiently functioning large law firms.

Practical implications: The article may be used in research carried out by the National Council of Court Enforcement Officers and by the Ministry of Justice in order to prepare amendments to laws and regulations regarding the expenses and costs of maintaining the office.

Originality/ value: The publication systematizes the most important issues of expenditure and cost management and summarizes the issues of expenditure and costs into a single, structured article.

Keywords: Enforcement Officer Office, Personal and material costs, Maintenance costs, Court Enforcement Officers Act, Enforcement Costs Act, The Office expenses, The Office sources of income.

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1. Introduction

This article attempts to present a complicated issue concerning status, tasks, management and way of financing of court executive activity, and its aim is receiving an answer to the question for the following questions:

- Do legal solutions included in the Act constitute the basis for precise definition of bailiff's status and his self – financing?
- Is the catalogue of income and costs sources sufficient?
- Do received incomes allow to cover the costs of the bailiff's office maintenance?

Creating optimal conditions for executive organs activity is one of the fundamental duties of the state. The same categories are applicable in reference to management and financing executive activity.

The issue of bailiff's activity costs in our legal system was subjected to direct financing from funds collected from the parties to legal proceedings, and the state budget did not participate in this financing. This rule was adopted in a Resolution of the Minister of Justice of 10th March 1981 on fees for bailiffs activities (OJ 1981, no. 7, item 31 with amendments).

According to the Act on Court Bailiffs and Court Enforcement, the bailiff collected charges for enforcement activities (article 43 of the Act on Court Bailiffs and Court Enforcement). Finances collected from fees were intended for enforcement activities which are any costs of the office and enforcement activities in particular cases (article 34 43 of the Act on Court Bailiffs and Court Enforcement).

Currently, costs indispensable for financing some activities in enforcement cases come from enforcement fees. Enforcement fees constitute a tax free budget payment of a public – legal character charged for activities described in article 3, paragraph 3, point 1 and 2 of the Act of 28th February 2018 on bailiffs charges (OJ 2018, item 770). On the day when the discussed charge became enforceable, enforcement charges became a tax free budget payment of public and legal character. The discussed provision is not applicable in reference to these enforcement charges, which had been established before 1st January 2019 (Świtkowski, 2018).

2. Bailiff's Income

In the Act on Court Bailiffs, the legislator resigned from a solution, according to which enforcement charges had constituted the bailiff's revenue (article 6343, paragraph 4 of the Act on Court Bailiffs and Court Enforcement. Currently bailiffs' revenue is a commission fee for performed service. It is calculated proportionally to collected enforcement charges and remaining bailiff's fees (OJ 2018, item 770). Enforcement fees are charged with a liability deducted to the tax office in a following way:

- From PLN 0 to PLN 500 000 – 1%
- From PLN 500 001 to PLN 1 000 000 – 5%
- From PLN 1 000 001 to PLN 1 500 000 – 20%
- From PLN 1 500 001 to 2 000 000 – 30%
- More than PLN 2 000 000 – 40%

With the income of an amount of PLN 2 500 000, the charge deducted to the tax office is PLN 480 000, and an amount of PLN 2 020 000 constitutes a revenue which is to pay the cost of enforcement activity resulting from article 152 of the Act on Court Bailiffs. The average charge concerning the amount of PLN 2 500 000 is 19,2%. If the income is PLN 3 000 000, the average charge is 22,66%. If the income is PLN 4 000 000, it is 27%.

The bailiff is obliged to make deduction from his reimbursement according to the rules described above on his own every month. He is also obliged to transfer these charges to a separate bank account used to cover costs of enforcement activity to the 5th day of each calendar month and to submit OEG-1 declaration concerning collected payments.

Despite of significant settlements within the tax status of a bailiff, a lot of issues have been not covered with a new Act on Debt Enforcement Proceedings Costs. Position of bailiffs, despite of close relations with the court, has not been yet been précised and bailiff's status is similar to an independent profession (Kowalewska, 2018). Due to this fact, enforcement activities are performed by a bailiff on his own account, within self-financing model of court enforcement. The bailiff carries the financial risk of his activity, however, he has not got a status of an entrepreneur.

The bailiff is subjected to regulations limiting freedom of business activity and excluding the procedure of profit maximizing. Such opinion is presented by Constitutional Tribunal in judgment of 13th December 2011 (SK 44/09, OJ 2011 r. No. 279, item 1646). Bailiff, as the only functionary, performs all activities on his own account and risk.

In some situations he only receives expenditures refund. The costs of proceedings in unsuccessful cases, which he is obliged to accept, even though he knows that it is going to be ineffective, are covered with funds raised from cases effectively enforced. Such solution causes that there is a negative influence on the effectiveness of other cases, which are fully covered by claimant and debtor.

Estate inventory, where payment in the amount of PLN 400 does even not cover the costs of conducting and keeping enforcement files serves as an example, especially when bailiff encounters inventory connected with large succession property, appraisal of movable and immovable assets. Raising maintenance costs are not anyhow connected with collected fees. Especially large raise of remuneration during

the last 4 years led to the situation in which, adopted by the legislator, above mentioned thresholds described in 2017 and adopted in 2018 as the act of law, undergo significant depreciation due to inflation in years 2018 – 2021 – about 15,9% (2018 – 1,6%, 2019 – 2,3%, 2020 – 3,4% - inflation was about 8,6% high)².

There was still a division o to relative and stable. The basic aim of adopting the Act of Debt Enforcement Procedure Costs was rationalization of provisions by means of unification and simplification of current solutions, as well as systemizing and ordering them. Current regulations describe its character in a categorical manner.

Enforcement fee constitutes a tax free budgetary charge. However, it did not regulate enforcement costs for effective enforcement. Progressive burdens of fees with percentage deductions, along with the increase of received payments with higher amount for the State Treasury causes a reverse effect. The more the bailiff works and enforces, the less he is going to earn. In order to act in a more effective way, he has to employ people, buy equipment, increase office space which causes increased costs of his activity. He will not be able to cover these expenditures since enforcement fee (commission fee) will be decreasing and effectiveness of work will be increasing.

Connecting the increase of fees with the increase of remunerations would guarantee appropriate fulfillment of fiscal and social function costs. The increase of inflation causes actual increase of bailiffs' offices expenditures, which will be more and more difficult to balance with strictly defined fees. It may cause decrease of interest of bailiffs to perform activities in the most effective way (Angielczyk, 2018). It concerns especially evictions, putting into possession, estate inventory.

Degrassive rate of commission is a kind of punishment for effective proceedings, which may lead to enforcement effectiveness decrease. Accepted way of specifying commissions may lead to the decrease of interest in performing this profession and decrease of number of bailiffs' offices (Kołodko, 2018).

The second source of bailiff's income are enforcement fees which were legally established since 31st December 2018 and which have been collected after this date. It concerns charges established on the basis of the Act on Court Bailiffs and Court Enforcement according to rules specified in the Act, which is 15% and 8% and the remaining charges listed in articles from 43 to 60.

The bailiff's income also include income from the sale of assets which was registered as assets of bailiff's office. These are incomes form the sale of movable assets, e.g. a car, a printer, a computer, other fixed and non-permanent assets. Incomes originating from lease and tenancy or amortization can also be the source of income.

²Annual indicators of prices and goods according to Central Statistic Office.

3. Bailiff's Expenditures

The next source of income which is to cover the expenditures connected with maintenance of the office is tax return. The legislator, in the provision in article 6 of the Act on Debt Enforcement Proceedings Costs, included a list of bailiff's expenditures. Expenditures related to returns for correspondence delivery belong to expenditures which have special impact on the office functioning and covering costs related to the office functioning. Correspondence delivery costs, except for delivery costs of Notices of Enforcement Proceedings are refundable by a debtor in case of effective enforcement. In case of ineffective enforcement the claimant covers these costs.

Costs of financial resources transfer are also refunded from enforced money. In case of ineffective enforcement, advancement return is paid from advancements paid by a claimant.

Bailiff's activities costs out of his division are connected with commuting. The cost of commuting is covered by a claimant and it is covered from the advancement paid by a claimant. The bailiff is also entitled to receive return of remaining expenditures listed in article 6 of the Act, however, due to this research paper's scope of interest, they are not going to be presented, since they do not have direct impact on the costs of office maintenance. They are directly related to performed enforcement activities (Klonowski, 2018).

The possibility to collect the expenditures return is limited only to cases indicated in the Act on Debt Enforcement Proceedings Costs. Advancements, similarly to payments gained by the bailiff, constitute a part of the income which is protected on the basis of article 64, paragraph 2 of the Constitution of the Republic of Poland.

The Constitutional Tribunal, in the judgment of 14th May 2009, K 21/08 OTK-A, no. 5, item 67 decided that exempting the State Treasury from paying advancements for expenditures of a bailiff, spent during the course of enforcement proceedings is unconstitutional (article 40 paragraph 2 of the Act on Court Bailiffs and Court Enforcements). Enforcement charges (article 45 paragraph 2 and article 49a paragraph 3 of the Act on Court Bailiffs and Court Enforcements) paid by bailiffs in cases not connected with conducting business activity were also deemed unconstitutional.

4. Bailiff's Bank Accounts

1. The account supporting the office within performed enforcement and protective proceedings (obtained enforcement measures, advancements for expenditures, fees for protective proceedings),
2. The account of enforcement fees – there are enforcement fees, resources for VAT tax and calculated enforcement payments to be transferred to the Tax Office,

3. Office's operating account – it is used for paying the costs of enforcement proceedings listed in article 150.4 of the Act on Court Bailiffs.

Bailiff can freely dispose of the funds located in a bank account used to cover the costs of enforcement activity. It is a private account of the court bailiff.

5. The Characteristics of Enforcement Proceedings Costs

The legislator, in the provision included in article 152 of the Act on Court Bailiffs, defines costs of enforcement activity, which interpretation does not cause any problems. Costs specified in the mentioned provision are covered, according to article 152.2 of the Act of Court Bailiffs with collected enforcement fees decreased by deductions for the Tax Office. Indication of costs catalogue can be only performed on the basis of provisions of article 22 of the Act on Personal Income Tax.

The legislator, in the body of article 152 of the Act of Court Bailiffs, purposely used a term “activity”, since among different kinds of activities, including business activity, enforcement activity is one of economic and social life manifestations.

Due to this fact, enforcement activity includes not only enforcement procedures specified by particular provisions of the second part of the Civil Code, but also other activities of a court bailiff, connected with performed enforcement in wide understanding of this concept (Lubiński, 2000).

These expenditures constitute costs of performed activity and should be covered from collected enforcement fees and considering them to be costs is assessed according to governing system of tax law standards. It seems to be purposeful and right to use depreciation charges from fixed assets, purchased by court bailiffs. The majority of them possess modern computer equipment in their offices, cars and other assets indispensable for the office's functioning. Adopting unified interpretation of tax law standards for the whole professional corporation of bailiffs, according to the rules of rational legislator is also an indispensable step (Knypl, 2003).

According to the Act on Court Bailiffs: “Bailiff conducts a bailiff's office, hereinbelow called (office) in the District Court area in which he was appointed”. In literature, it is indicated that: Bailiff conducts a bailiff's office, which is his place of work and, at the same time, office handling his operations. The bailiff's office, at the same time plays a supportive and service role for the bailiff as a public functionary. Bailiff's office is not a subject of any rights and duties.

These are connected solely with the court bailiff. In the view of article 551 of the Civil Code, bailiff's office plays a role similar to an enterprise performing business activity (Surówka, 2013). It includes all kinds of material resources and assets elements necessary to perform a particular bailiff's activity and conduct enforcement

activities. Bailiff's activity is not referred to as business activity, however, due to the fact that bailiff acts on his own account (article 152.2 of the Act on Court Bailiffs) and his activity shows functional and subject signs of business activity. According to article 2 of the Act on Freedom of Business Activity, the office is a small enterprise and for many bailiffs it is a medium –sized enterprise, taking into consideration the number of people employed (Biežuński & Biežuński, 2008).

All property rights connected with the bailiff's office are granted to a court bailiff. Moreover, the bailiff's office includes workers performing their activities on behalf of the bailiff. Due to this fact it can be treated as a company in terminology commonly used until recently in labor law (Stelnia, 2012). Content of article 153, paragraph 1,2,3 and 4 of the Act on Court Bailiffs, according to which a bailiff employs workers on the basis of contracts: employment relationship, specific task contract, order contract.

These are people responsible for office management, protection and support in activities in the area outside bailiff's district, including trainee bailiffs and assistant bailiffs. The State Treasury does not bear responsibility for bailiff's liabilities resulting from employing workers. The bailiff's office's place of residence should be located in the same town where the residence of a district court in which the bailiff works.

The Office constitutes a separate and organized by the bailiff team of people equipped in devices and material resources. This team plays supportive and technical roles for the bailiff. It is the place of office for the bailiff, where he deals with clients. The bailiff creates the office and covers all costs connected with arranging it. Special attempts are made in relation to the premises. The bailiff leases or purchases the office. He signs agreements connected with utilities: energy, heating, water, etc.

He is obliged to establish, create and report the Office to the Minister of Justice, including its address. In case of failure to perform this obligation, it is repealed, which is confirmed by the Minister of Justice (article 15, paragraph 3 of the Act on Court Bailiffs). Creating only one bailiff's office is acceptable for one person. The bailiff employs workers, defines their responsibilities and remuneration.

The workers are subjected only to the bailiff as their employer. The bailiff pays the costs of the Office, including workers' remunerations and other indispensable people to support and protect the Office, as well as to help outside the office. He also pays the bills connected with the Office's insurance. It is done on general basis. Any expenditures (personal and material) constitute enforcement proceedings costs.

There is some kind of duality in organizational and legal regulations of bailiff's work, since on the one hand, he performs office activities which are not included in business activity, so he cannot be treated as an entrepreneur. On the other hand, however, he organizes conditions in a range indispensable for realization of

entrusted tasks, like the bailiff's office and covers its maintenance costs from resources gained from performed enforcement activity, mainly from enforcement fees (commission fee). Interdependence of these spheres of bailiff's activity excludes any form of their separation. The bailiff realizes tasks specified by the state in a form and way scheduled in the provisions of law, and at the same time works in the bailiff's office which does not have an independent legal entity.

It is worth emphasizing that a bailiff performs enforcement proceedings at his own expense. Financial self-reliance of a bailiff is included in the article 150.1 of the Act on Court Bailiffs, due to which a bailiff collects enforcement fees for proceeding enforcement and other activities listed in the act.

These fees are decreased by the value transferred to the Tax Office. The regulation in the article 150.4 of the Act on Court Bailiffs requires covering the costs of enforcement procedures described in the article 152, paragraph 1 and article 15, paragraph 2 Act on Court Bailiffs from collected enforcement fees. According to this regulation, charges are transferred to a separate account.

The article 3a of the Act on Court Bailiffs and Court Enforcement, previously in force, indicated this fact in a clear way. However, reasons for which a bailiff is refused the status of an entrepreneur are differentiated (an in majority disputable): starting from the impossibility of joining such qualification with the status of public authority organ, due to subordination to regulations limiting the possibility to pursue to maximization, and finishing with the lack of acting on own behalf feature.

It seems that the answer to a question, if a bailiff is an entrepreneur according to article 431 of the Civil Code, which defines this term in a comprehensive way 'conducting business or professional activity', or within the meaning of the article 49 of the Treaty on the Functioning of the European Union, is not so unequivocal (Knypl and Merchel, 2015).

Moreover, according to the article 33.3 of the Act on Court Bailiffs, the regulation on personal income tax, social insurance and common health insurance related with people conducting non-agricultural business activity is also referred to a bailiff. According to article 152.1 of the Act on Court Bailiffs, the catalogue of enforcement proceedings costs is very wide.

6. Personal and Material Costs Incurred Due to Performed Enforcement Proceedings

6.1 Material Costs

Bailiff is responsible for ensuring (own or leased) office, and equip it with computers, Xerox, phones, software, office supplies, seals and many other devices and materials indispensable for efficient functioning of the Office. He is obliged to

sign an agreement for utilities supply, such as energy, heating and water. All above mentioned costs, connected both with the premises purchase as well as equipping it in fixed assets, intangible and legal assets are incurred by a bailiff on his own expense.

Costs are also connected with petrol purchase and vehicles exploitation, if such were registered in the fixed assets of the Office or will be used within the tenancy contract or car leasing contract. The office also bears costs of cars insurance, lease installments, and an initial payment when entering a leasing contract, in case when a car was used on the basis of leasing contract. In case when the car was a property of the bailiff and was reported in fixed assets, amortization would be the cost. The Office's cost is also amortization of fixed assets and intangible and legal assets.

6.2 Personal Costs

Personal costs are costs connected with employing workers, including trainee bailiffs and assistant bailiffs as well as other people necessary to support the Office. The bailiff bears full responsibility for employed workers actions performed within the enforcement procedures. The State Treasury has no responsibility for bailiff's liabilities resulting from employing workers and related costs.

As it follows from the above presented information, the bailiff employs people indispensable for supporting the Office's work as well as work outside the Office. Employment may have the form of employment relationships regulated with provisions of law (legal and employee regime), order contract and task specified contracts which are subjected to civil law (civil – law regime).

6.3 Costs of Seizures by Bailiff, Indispensable Personal Protection, the Bailiff's Office Insurance and Liability Insurance

Establishing costs of seizures may be very difficult. It should be considered if they are costs which may be treated as the Office activity costs, or expenditures from the article 152.1 of the Act on Court Bailiffs, which are paid within enforcement fees. If they are settled on the basis of article 6 of the Act on Debt Enforcement Proceedings Costs, the bailiff may require an advance payment for expenditures from a claimant.

Seized property costs also include costs of bailiff's revenue established in the course of enforcement procedures. In case when a bailiff maintains own warehouse or leases spaces for keeping the seizure property, these will be costs specified in the article 152.2 of the Act on Court Bailiffs, connected with the activity of the Office organized by a bailiff. Costs connected with equipment of a warehouse (especially shelves, lifts and other necessary things depending on the kind of kept movables) shall also be included in costs related to seizure property. There are also costs connected with employing people to secure the seizure properties and amortization of warehouse equipment.

Bearing in mind costs of indispensable protection of a bailiff, we should also undoubtedly include costs connected with remuneration of workers employed on the basis of employment relationship, order contract or task specified contract, whose task is securing the bailiff.

These costs do not include costs incurred by a bailiff in reference to the Police, Border Guard, Military Police, Military Law Enforcement Authorities, Military Counterintelligence Services, Military Intelligence Services, Internal Security Agency, Central Anti-Corruption Bureau's help or assistance in the course of enforcement activities. These costs belong to enforcement expenditures described in the article 6.6 of the Act on Debt Enforcement Proceeding Costs.

Insurance of the Office's equipment is voluntary. A bailiff makes decision concerning the amount of insurance. A bailiff has to anticipate the extent to which financial resources kept in the Office should be insured. Costs connected with property insurance are included in the bailiff's office's costs. Article 152.2 of the Act imposes an obligation on a bailiff to have civil liability insurance for damages created in the course of performing professional activities.

Bailiff's liability for damages insurance is of a guarantee character, ensuring real compensation for damages made by him due to unlawful acts and omissions. A bailiff employing workers is also obliged to enter a civil liability insurance agreement for damages performed by workers. Lack of insurance agreement or loss of insurance due to reasons caused by a bailiff are a premise for removing him from his office.

Moreover, the legislator imposed an obligation on a President of a District Court, who is bailiff's supervisor, to control the insurance requirement fulfillment. A document issued by insurance agency and insurance policy is a confirmation of fulfilling the requirement of concluding the insurance. In case when a bailiff did not conclude civil liability insurance agreement (Marciniak, 2014).

Activities of court bailiffs made on their own account, in an organized bailiff's office, constitute gainful activity performed in a permanent and organized way, fulfilling all features of a business activity described in article 1a, paragraph 1, point 4 of the Act of 12th January 1991 on Taxes and Local Charges (that id OJ 2006, no. 121, item 844 with amendments – Act on Taxes and Local Charges) defined for the needs of the above Act on Tax in article 2 of the Act of 2 July 2004 on Freedom of Business Activity (OJ 2007, no. 155, item 1095 with amendments).

Court bailiff is not an entrepreneur in the meaning of the article 4 of the Act on Conducting Business Activity, however, his activity fulfills all constructive features of business activity defined in article 2 of the Act on Conducting Business Activity. A bailiff is a public functionary and an organ of public authority in a functional

meaning. However, such legal situation of this profession does not contradict with a statement that activity performed by him if of profit-making nature.

6.4 Costs of Commuting in a City Being a Residence of a Bailiff's Office, Correspondence, Financial Circulation, Transportation of Minor Movables not Requiring Specialized Means of Transport

The costs of commuting in a city being a residence of bailiff's office in order to perform enforcement proceedings are not returned and according to article 6, paragraph 1 of the Act on Court Bailiffs they are fully included in the costs of the Office.

The costs of financial circulation are not the only costs of financial resources transfer to a bank account or through post office, which according to article 6.1 of the Act constitute expenditures, covering which may be connected with requiring advance payment from a claimant or they are covered by a debtor. Paying bank account fees, costs of payments through specific mechanisms or other costs, depending on the kind of the contract with a bank through the post office within monetary transfers.

According to a personal interpretation of the Head of the Tax Chamber in Poznań of 2nd September 2013 ILPB1/415-658/13-2/AP (Tax Chamber in Poznań, 2013) 'tax deductible costs are not related to all costs. The incurred costs have to be in cause and effect relation with gained income from a certain source or keeping and protecting the income source. However, the difficulty of indicating such relation is assigned to a tax payer, who bears specified legal results from this situation'.

Tax deductible costs are referred to all rational and economically justified expenses connected with performed business activity. From the assessment of relation with performed business activity it should result that incurred payment may objectively relate to gaining profit from a particular source. So, to consider the expense as tax deductible cost, it should, according to legal regulations, meet the following conditions:

- Stay in cause and effect relation with income or the source of income and be incurred in order to gain profit or keep or protect the income source;
- Not be listed on a list of costs not considered as tax deductible costs specified in article 23 , paragraph 1 of the Act on Personal Income Tax;
- Be appropriately documented.

6.5 Compulsory Charges for Judicial Officer's Self-Government Paid According to the Provisions of Law

Charges for judicial officer's self-government are a compulsory charge paid by all bailiffs. This obligation results from article 152.1.6 of the Act and the amount of the contribution is specified annually by a Chamber of Bailiffs, in accordance with

article 38.1 of the Act on Court Bailiffs, in the amount of 0,3% = 1% of the commission fee gained in the previous month, except for article 38.2 of the Act, where a bailiff pays a contribution not higher than PLN 100.

The Chamber of Bailiffs is composed of bailiffs conducting the Office in the area of District Court of Appeals. Membership in the Chamber of Bailiffs is binding from the day when a bailiff obtains the right to perform profession described in article 205.3 and ceases with the day a bailiff is revoked.

Due to the fact that contributions are of a civil and legal character, the fulfillment of this obligation is conditioned with civil law regulations (e.g. statute of limitations, execution and effects of not meeting the requirements, the possibility to spread them into installment payments).

The legal organ entitled to seek unpaid contributions is the Council of the Chamber of Bailiffs competent with respect the bailiff's office residence. Failure to comply with the requirement to pay contributions may result with the bailiff's disciplinary consequences.

6.6 Other Costs Indispensable to Perform Enforcement Proceedings

Costs connected with keeping files and archiving files are other costs necessary to perform enforcement procedures. The amount of these costs depends on category of files, which the bailiff has to keep for different periods of time. The Ministry of Justice prolonged the period of keeping files concerning the cases where complete enforcement has not taken place to 12 years (OJ 2018, item 2408), by the means of the Resolution of 27th February 2018. Prolongation of this period to 7 years increases the costs of archiving by 100% in relation to the current costs.

This provision is the opposite of the regulation included in the article 125 of the Civil Code, where the statute of limitations related to sentenced cases is reduced to 6 years. That is why such significant prolongation is very costly for the bailiff. At the same time, it is worth emphasizing that a bailiff returns the claimant enforcement title, so what is the reason for keeping files. The claimant can start enforcement procedures on the basis of this title, and a bailiff will have to keep identical files for another 12 years.

Except for costs connected with keeping files according to 164.1 and 164.2, each bailiff – just as other employer – covers costs connected with keeping and archiving employment records and costs related to keeping financial and tax documentation of the owned Office.

A bailiff is obliged to cover his social and health insurance contributions in accordance with the Act on System of Social Insurance of 13th October 1998, consolidated text OJ 2013, item 1442.

7. Conclusions

The range of sources of incomes of bailiff's activity financing results from the Act on Court Bailiffs and has been specified by a legislator. The content of article 152 of the Act on Court Bailiffs defines the costs of enforcement proceedings. Enforcement activity is one of the manifestation of economic and social life. Effectiveness of enforcement activity is of great significance for economic life and maintenance of economic circulation flow.

Bailiff is not an entrepreneur and does not act within the frames of a free profession. He cannot refuse the application to commence the enforcement proceedings if he is competent to perform these actions, even if the enforcement is not likely to be successful. Bailiff's legal status, his rights and responsibilities are strictly specified by legal acts. A bailiff can perform enforcement proceedings and other entrusted responsibilities only within and on the basis of law. A bailiff is subordinated to a comprehensive judicial and administrative supervision.

Maintenance of court enforcement system requires great financial resources. Court enforcement has never been financed from the state budget. Bailiffs are not remunerated by the state and the whole system of court enforcement is maintained form charges and the return of expenses collected from the parties to the proceedings. Current rules of financing enforcement proceedings are completely separated from market economy.

A court bailiff is obliged to observe rules of law. In the process of conducting a bailiff's office, he has to respect the self – financing principle. It means that he is financed from internal sources (own sources), including external sources from which he covers all costs connected with current maintenance. He also has to think about future financing of the Office.

The bailiff's office is some kind of independent institution, it can be referred to as a mini enterprise, mainly employing not more than 10 people. This entity makes independent decisions specified with the Act on Court Bailiffs and the resolution on specific rules of conducting office works, accountancy, records of financial operations in a bailiff's office.

The bailiff's independency manifests with self made decisions. Membership in the Chamber of Bailiffs is compulsory. A bailiff should obey the rules of the Code of Professional Conduct, which limits his independency through forbidding to perform other professions and earning money in other way than being a bailiff. Due to this fact, ensuring decent resources for financing bailiff's professional tasks is so important. A bailiff bears full responsibility for tax liabilities even though he is a public functionary.

Contrary to the assumptions which became the foundation of adopting new acts of law regulating the model of court enforcement functioning and court bailiff's status, it can be currently stated that the legislator did not manage to achieve the goal which was creating comprehensive and clear legislation.

Rather a short-term objective has been created – it means, supervision over the court bailiff has been increased, his independency has been limited and at the same time new duties and tax charges have been put on him. If the estate wants to earn on court enforcements proceedings, it would be more rational to use a linear rate, just as it was in the Act of 1997 on Court Bailiffs and Court Enforcement where the state received a part of charges for successfully proceeded cases.

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