

INSTRUCTIONS ON PROCEDURAL ACTIONS TO PARTIES IN THE ENFORCEMENT PROCEEDINGS TAKING INTO ACCOUNT THE ACKNOWLEDGMENT OF THE DECISION TO AWARD THE BID

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Abstract. Instructions in civil proceedings have an important role in the possibility of the parties to exercise their rights. The legislator paid attention to the importance of instructions, while striving to create templates for instructions, which will ultimately not happen. It is similar in the enforcement proceedings. It will be paid attention to the nature and significance of instructions in this proceeding, with particular emphasis on the refusal to award the bid, which affects the property relations of the parties.

Keywords: instructions, enforcement proceedings, award the bid, refusal to award the bid, lack of instruction

INTRODUCTION

Advices on procedural actions to parties in the course of civil proceedings, including enforcement proceedings, is of significant importance as it involves providing the parties with the possibility of taking effective and appropriate procedural steps at a given stage of the proceedings. The legislator expressed this by pointing to the need to create templates of instructions in the amendment of 4 July 2019¹ in order to correctly implement the related obligations. In the justification of the draft under the Code of Civil Procedure² of 2019, the need to standardize the instructions that the courts provide to the parties in writing during the proceedings was justified by the need to adapt the legal language to non-lawyers [Marszałkowska–Krzeń 2019, 8]. Ultimately, this was waived in the shield regulations due to the inability to introduce such a large number of templates.³ Also the addi-

¹ Act of 4 July 2019 amending the Act – Code of Civil Procedure and certain other acts, Journal of Laws, item 1469.

² Act of 17 November 1964, the Code of Civil Procedure, Journal of Laws of 2020, item 1575 as amended [hereinafter: CCP].

³ Act of 19 June 2020 on interest subsidies for bank loans granted to entrepreneurs affected by COVID-19 and on simplified proceedings for approval of an arrangement in connection with the occurrence of COVID-19 (Journal of Laws, item 1086), i.e. Shield 4.0; Article 71 of this Act indicates that in the Act of 4 July 2019 amending the Act – Code of Civil Procedure and certain other acts (Journal of Laws, items 1469 and 2089) in Article 1(2) was repealed, which the Minister of Justice was to define, by way of a regulation, for model instructions that the code requires in writing, bearing in mind the need to ensure communication. Therefore, in the end, there will be no pattern set.

tion of the Act amending Art. 763¹ CCP imposing the obligation to provide instructions to the bailiff. Hence, the literature emphasizes the need for an active attitude of the authority in informing the parties about their rights. The jurisprudence indicates that the fact that a party acts without a professional legal representative does not automatically determine the justified need for such instructions, and whether the provision of such instruction must be justified in a given situation depends on the judgment and discretion of the court. The instruction requires the assessment of the circumstances of the case and becomes the duty of the court only in completely exceptional situations, when there is a need to prevent inequality of the subjects of the pending proceedings.⁴ Similarly, in the field of enforcement proceedings, applying to circumstances, emphasis is placed on the possibility of informing participants in the proceedings, the more so as the introduced regulations indicate a significant importance and effects. For this purpose, an analysis will be presented to what extent the instruction of the parties in the course of enforcement proceedings is relevant and what effects it may have. It will be underlined particular attention to the importance of not providing instructions that caused a refuse to award the bid due to breach of the rules of proceedings in the course of the auction especially in the context of the recent Supreme Court resolution.

1. THE SCOPE AND EFFECTS OF INSTRUCTIONS IN ENFORCEMENT PROCEEDINGS

Pursuant to Article 5 CCP in connection with Article 13(2) CCP, where reasonably required, the court may give essential advice on procedural actions to parties to and participants in proceedings who appear in the case without professional representative [Manowska 2021]. It is for the court to assess whether there is a justified need to provide instructions⁵ when it is convinced that there is such a justified need.⁶ The mere lack of a professional attorney cannot be regarded as such a need, but e.g. such awkwardness of a party that the lack of instruction would lead to a violation of its procedural guarantees for fair hearing of the case by violating the principle of equality of the parties, as well as the particularly complex nature of the case.

The bailiff may also provide the parties and participants of the proceedings with relevant instructions. The instructions are to apply to procedural actions performed by the parties, in particular the time, place and manner of performing them, as well as the legal consequences of these actions and their negligence. It

⁴ The judgement of the Supreme Court [hereinafter: SC] of 28 August 2020, ref. no. III CSK 333/19, Lex no. 3063115.

⁵ See among many judgements of the SC of 4 April 2014, ref. no. I UK 363/13, Lex no. 1482341; of 11 October 2013, ref. no. III UK 139/12, Lex no. 1463907; of 10 May 2013, ref. no. I CSK 495/12, Lex no. 1365592; of 16 February 2012, ref. no. IV CZ 113/11, Lex no. 1217226; of 12 September 2014, ref. no. I CZ 55/14, Lex no. 1521314; of 27 June 2013, ref. no. III CZ 33/13, Lex no. 1360264.

⁶ The judgement of the SC of 27 September 2012, ref. no. III CSK 13/12, Lex no. 1224681.

is assumed that these instructions may be informative (e.g. regarding the activities that the party may or should perform), as well as corrective (e.g. explaining that the party has performed an inappropriate procedural act) [Pietrkowski 2020]. As at the stage of examination proceedings, instructions may be given by the bailiff when the parties act without professional representatives – an attorney or legal advisor, when the parties act without help or when the party is represented by another representative, e.g. parents, spouse, siblings. Instructions may be provided only in the event of a “justified need” [Kunicki 2019c]. This is a vague concept, therefore the procedural authority is left to assess whether such a need exists in a specific case and it will be justified if the party is helpless, when it encounters difficulties or obstacles beyond its control. that could lead to an unfavorable situation for her.⁷ Instructions are necessary when without them a party who is not replaced by an advocate or legal advisor would be deprived of influence on the course of the proceedings and could not exercise his/her rights.⁸ The jurisprudence indicates that the mental state of the party and the ability to perform procedural actions in connection with it are of significant importance.⁹

The provision of Article 5 CCP introduces the possibility of the necessary instructions to the parties only as to procedural steps. This means that they may not, under any circumstances, concern substantive issues or such procedural steps which, in fact, include legal advice. The instruction is provided by the court (or – according to the stage of the proceedings – by the chairman) in each instance, but only in case of justified need. They relate to the procedural activities performed by the parties, in particular the time, place and manner of their performance, the legal consequences of these activities and their negligence [Bodio 2020]. The instructions are related to the admissibility of performing certain procedural steps at a given stage of the proceedings, i.e., for example, submitting an application for exemption from court costs or appointing an ex officio attorney (Article 117 CCP).¹⁰

The instructions may only concern procedural acts, e.g. the advisability of submitting an application for exemption from court costs or an application for the appointment of an attorney. The court, under the instructions under Article 5 CCP, however, there is no obligation to act on behalf of the parties and to determine ex officio the proper meaning of applications or pleadings submitted by the parties.¹¹

⁷ Among others the judgements of the SC of 14 February 2007, ref. no. II CSK 436/06, Lex no. 358777, of 28 October 2003, ref. no. I CK 185/02, Lex no. 328989, of 13 May 1997, ref. no. II UKN 100/97, OSNP 1998, No. 4, item 133, of 30 April 1997, ref. no. II UKN 79/97, OSNP 1998, No. 2, item 58.

⁸ The judgement of the SC of 30 June 1999, ref. no. II UKN 21/99, OSNP 2000, No. 18, item 695.

⁹ Among others the judgements of the SC of 27 March 1974, ref. no. I PZ 13/74, Lex no. 14247, of 28 September 1999, ref. no. II CKN 269/99, Lex no. 39112, of 7 July 2005, ref. no. II UK 271/04, OSNP 2006, No. 5–6, item 95.

¹⁰ Judgment of the Court of Appeal of Gdańsk of 22 March 2018, ref. no. III AUa 1402/17, Lex no. 2514384.

¹¹ Judgment of the SC of 21 December 1998, ref. no. III CKN 985/98, OSNC 1999, No. 5, item 104.

Letters addressed to the parties or participants of the enforcement proceedings also contain instructions. The instructions speak not only of the rights they are entitled to, but also of their obligations. M. Uliasz points out that the announcement on the date of the auction contains a number of other information and instructions, such as the price of calling, the amount of the warranty, which may be questioned in a complaint against the bailiff's actions [Uliasz 2016]. For example, before the start of the tender, the bailiff advises the bidders that the tender is conducted orally; that the bid increment may not be less than 1% of the call price, rounded up to full zlotys, that the offered price ceases to be binding when another bidder offered a higher price; that after the cessation of the bailiffs, the bailiff, notifying those present that after the third announcement no further bids will be accepted, will announce the last offered price three times, close the tender and replace the highest bidder; that after the tender is closed, the court in the person of the judge under whose supervision the auction takes place shall issue a decision in open court as to the award of the bidder who offered the highest price, after hearing both him and the participants present; that the decision to award the award will be announced by the court immediately after the tender is completed; however, the announcement may be postponed for a maximum of one week, if a complaint has been filed, which cannot be resolved immediately, as well as for other important reasons; that the person to whom the adjudication was granted obtains, if he fulfills the conditions of the auction, the right to award him ownership of the real estate; that after the confirmation of the bidding and performance by the buyer of the bidding conditions or the decision on the determination of the purchase price and payment of the entire price by the State Treasury, the court issues an order awarding ownership; that a legally binding decision on awarding ownership transfers ownership to the buyer and is the title to disclose to the buyer the ownership right in the real estate cadastre and by an entry in the land and mortgage register or by submitting a document to the collection of documents; a legally binding decision on awarding title is an enforceable title to bring the buyer into possession of the real estate and to empty the premises located on the real estate without the need to give it an enforcement clause; whether from the moment the decision on awarding the title to the buyer becomes final, he owns the benefits of the real estate; recurring public tributes related to the property from the date of validity of the decision on awarding the title to the property shall be borne by the buyer; The non-recurring public law benefits shall be borne by the buyer only if their payment is due on or after the date on which the decision on awarding title becomes final [ibid., 392].

Failure to be informed may have far-reaching consequences, especially in the context of breach of the rights of defense. However, the Supreme Court in the resolution of the combined Civil Chambers and the Chamber of Labor, Social Security and Public Affairs of November 22, 2011,¹² emphasized that “failure to ins-

¹² Ref. no. III CZP 38/11, OSNC 2012, No. 5, item 56.

truct or incorrectly instruct a party operating without an attorney, legal advisor or patent attorney about admissibility, the date and manner of filing an appeal shall not affect the commencement of the period for lodging such an appeal.”

2. SPECIAL INSTRUCTIONS IN ENFORCEMENT PROCEEDINGS

In the enforcement proceedings, the legislator also provided for regulations imposing on the authorities the necessity to provide instructions. Unless the indicated instructions provided pursuant to Article 5 CCP are general in nature, the others are regulated by instructions on the rights and obligations to take specific actions – e.g. Article 761(3), Article 791(3), Article 881(3), Article 1046(9) CCP [Pietrkowski 2020].

Pursuant to Article 763¹ CCP, the bailiff instructs the parties and participants of the proceedings who are not replaced by an attorney, legal advisor, patent attorney or the General Prosecutor’s Office of the Republic of Poland about the manner and time limit for challenging the actions. If these people are not present, the instruction follows the notification of the activity. In each case of performing an action, the bailiff is obliged to provide such instruction in order to enable participants to appeal against this action even in a situation where it is not possible to file a complaint against the bailiff’s actions [ibid.]. The Minister of Justice specifies, by way of a regulation, the template and method of providing the official complaint form, taking into account the statutory requirements for this letter, the need to provide the necessary instructions on how to fill in the form, submit the letter and the consequences of not adjusting it to the statutory requirements, as well as the need for free providing forms at bailiff offices, court offices and the Internet in a form that allows for convenient edition of the form content.¹³

It is also important to provide instructions regarding the initiation of enforcement, the more so as there are far-reaching effects in this respect. Pursuant to Article 796(4) CCP, the Minister of Justice shall define, by way of a regulation, the model and manner of providing the official form of an application for the initiation of enforcement, having regard to the statutory requirements for this letter, the need to include the necessary instructions on how to fill in the form, submit a letter and the consequences of not adjusting it to statutory requirements, as well as the need to provide the forms free of charge at bailiff offices, court offices and the Internet in a form that allows for convenient editing of the form’s content.¹⁴ At the first enforcement action pursuant to Article 805(1) CCP, the debtor is served with a notice of the commencement of enforcement, with the content of the writ of execution and the manner of enforcement, as well as information on the

¹³ Ordinance of the Minister of Justice on the specimen and method of providing access to the official complaint form against the activities of a bailiff of 23 November 2018, Journal of Laws, item 2296.

¹⁴ Regulation of the Minister of Justice of 30 November 2018 on the specimen and method of making available the official form of the application for the initiation of enforcement addressed to the bailiff, Journal of Laws, item 2307.

possibility, date and manner of bringing an appeal against the decision granting the enforcement clause. This is illustrated by an extensive range of instructions [Jarocha 2020]. Due to the possibility of recording enforcement activities with the use of video and sound recording equipment in accordance with Article 809¹(1) CCP, also in this regard, the bailiff shall stop recording the course of action at the debtor's or a third party's place of residence, if the debtor or that person objects to what these persons should be instructed about. At the request of the person who objected to the recording of the activities, the bailiff starts recording the activities again, about which these people should be instructed [Kunicki 2019b, 57; Studzińska 2019].

The legislator also regulates specific instructions, e.g. in Article 893¹(2) CCP regarding the attachment of a saving contribution, in Article 913(3)CCP. The bailiff instructs the creditor in the case without a professional attorney about the right and method of submitting an application for disclosure of the debtor's assets, and the debtor applying in the case without an attorney, legal advisor, patent attorney or counselor of the General Prosecutor's Office of the Republic of Poland about the consequences of disclosing assets or estimating real estate (Article 948(1¹) CCP). The particular scope of the instructions may be important in electronic bidding. As Kunicki points out, most of the provisions of the Code of Civil Procedure, such as Article 867¹(2–3), Article 867²(2), Article 869(2), Article 870, 872, 874 and 879 CCP does, however, apply, sometimes with some modifications, to electronic bidding and it seems reasonable to inform the bidders about their content. However, there is no legal basis for this information to be included in the notice on electronic bidding (Article 879⁶ CCP) [Kunicki 2019a].

A special regulation in this regard is contained in Article 975 CCP indicating that if several real estate or several parts of one real estate are to be sold, the debtor has the right to indicate the order in which the tender of individual real estate or parts is to be conducted. As M. Krakowiak points out [Krakowiak 2019], a situation is regulated here when the subject of one auction is several real estate of the debtor (Article 926 CCP) or several parts of the real estate, and Article 975 CCP does not apply if several auctions of the debtor's various properties are to take place on one day [Korzonek 1934, 1043]. As in the case of Article 926 CCP, the purpose of Article 975 CCP is the protection of the debtor's interests, in line with the general purpose of the auction, i.e. to satisfy the creditor, as enforcement measures must be applied proportionally to the purpose of enforcement [Krakowiak 2019]. Therefore, effective enforcement should be carried out in the least burdensome manner for the debtor (see Article 799(1) and Article 979 CCP). Therefore, the debtor has the right to decide on the order (order) of the enforcement sale of individual parts of the real estate or individual real estate.

H. Pietrzowski, interpreting Article 975 CCP indicates that the debtor should be informed about his entitlement, and then requested to mark the order of sale, pursuant to Article 5 in connection with Article 13(2) CCP [Pietrzowski 2020]. Similarly, A. Adamczuk expresses the view that when the bailiff appoints a sepa-

rate auction for each of the seized real estate or part of the seized real estate, the debtor, instructed by the bailiff, has the right to indicate the order in which auctions involving his real estate or separated parts of one or more real estate will be designated [Adamczuk 2021].

To sum up, the court, acting as part of judicial supervision, may instruct the parties and participants in the proceedings in the scope of serving activities. Since, as part of supervision, the judge supervises the correct course of the auction and may issue orders to the bailiff aimed at ensuring its proper course, removing observed deficiencies (Article 759(2) CCP) and immediately adjudicating orally submitted during the auction until the tender is closed complaints against the bailiff's actions (Article 986 CCP). may also advise on the admissibility of merging enforcement proceedings or in accordance with Article 975 CCP the seizure of several properties of the debtor, or when proceedings are combined where enforcement is directed against different parts of the same property. This may also apply to the case where several parts of one of the debtor's real estate have been separated, assuming that the prices of calling these parts of the real estate will be sufficient to cover the enforced benefits along with the costs of enforcement.

3. ADMISSIBILITY OF REFUSAL TO AWARD THE BID DUE TO LACK OF INSTRUCTION

The adjudication is a necessary condition for the buyer to be able to award the title to the buyer [Świeczkowski 2019, 85–95]. The decision on the adjudication is tantamount to a statement that the activities carried out prior to its execution turned out to be lawful [Żyżnowski 2015]. Since the Code of Civil Procedure in Article 991 provides for the conditions that prevent the awarding of the award, the court is obliged to hear the bidder and the present participants before issuing the order. The purpose of such a hearing is to determine whether there are any factual obstacles to the bid of the property. This does not mean, however, that the lack of objections from the buyer or participants will result in a positive decision of the court. The court should take into account the obstacles to the adjudication *ex officio* [Ciepła 2018]. The reasons justifying the issuance by the court of the refusal to adjudicate are specified in Article 991 CCP. There is no unanimity in the literature as to whether the enumeration of the reasons for issuing such a decision is exhaustive. It is expressed, *inter alia*, the view that violations of the enforcement procedure standards other than those indicated in this provision may constitute the grounds for refusal to award an award, if they could have a significant impact on the tender result [ibid.].

Some representatives of the doctrine indicate that the reasons for the refusal to award were listed exhaustively due to the fact that the participants in the proceedings have sufficient procedural means at the pre-auction stage to protect and defend their rights and it would be pointless if, after carrying out burdensome and costly enforcement actions, such like, among others description and assessment,

announcements about the auction, tender, the legislator would allow the possibility of raising such allegations even after the end of the auction, which the participants could have reported at an earlier stage of the execution [Krakowiak 2019]. Another argument is the fact that defective activities of a bailiff may be corrected by means of a complaint against the bailiff's actions and judicial supervision exercised over the bailiff by the district court pursuant to Article 759(2) CCP, and raising such deficiencies that occurred in the earlier stages of enforcement against real estate only at the stage of bid would be delayed in the light of Article 767(2) CCP [Hahn 1936a, 627; Bartz 1934, 538; Zedler 1995, 316; Romańska 2014, 825; Sitkiewicz 2001, 74; Krakowiak 2019].

The second view that the enumeration of the reasons for the refusal to adjudicate is exemplary and the court may refuse to adjudicate on the basis of procedural errors occurring in the earlier stages of enforcement is based on the assumption that Article 991(1) CCP it does not emphasize the restrictive nature of this provision, and adopting a view that allows a refusal to grant a bid on the basis of deficiencies arising before the auction would not imply the right to appeal to final decisions [Świeboda 1980, 106; Wengerek 2009, 579; Pietrkowski 2020; Flaga-Gieruszyńska 2019]. In the justification of the decision of 3 July 1998,¹⁵ the Supreme Court indicated that the wording of Article 991(1) CCP gave rise to a discussion in the doctrine whether the court may refuse to adjudicate in the event of deficiencies at an earlier stage of the enforcement proceedings (before the auction) and indicated that the position should be divided, according to which the enumeration of the reasons for refusal to adjudicate should be treated as an example and, consequently, the basis for the refusal to adjudicate may also be defective proceedings arising before the auction. One cannot only raise objections as to legally resolved issues. The basis for a complaint against the award may therefore be the allegation of violation of Article 962(1) CCP.

Examples of violations of the provisions of the procedure in the course of enforcement, which may have a significant impact on the result of the tender, include incorrect definition of the warranty,¹⁶ failure to submit a warranty by the enforcing creditor,¹⁷ start of the auction before the set date or with a long delay, unlawful removal from the auction of persons entitled were to participate in it, failure to submit a warranty by the bidder for whom the bidding is to take place,

¹⁵ Ref. no. I CKN 1066/97, OSNC 1998, No. 12, item 224.

¹⁶ "Determining the amount of the warranty contrary to Article 962(1) of the Code of Civil Procedure constitutes a breach of the provisions of the procedure referred to in Article 991(1) of the Code of Civil Procedure. However, the refusal of the award may take place only when the significant influence of this failure on the tender result is proven." Decision of 3 July 1998, I CKN 1066/97, OSNC 1998, No. 12, item 224.

¹⁷ "Failure to submit a warranty by the enforcing creditor who submitted an application for taking over the property for ownership is the same as a failure to provide a warranty by the bidder for whom the bidding is to take place. The court, finding such a breach, should refuse to adjudicate (Article 991(1) of the Code of Civil Procedure)." Decision of 22 April 1998, I CKN 1084/97, OSNC 1998, No. 12, item 215.

designation of too low calling price, if the purchase price as a result did not reach the correctly established calling price, preventing a person who could act as an auctioneer from bidding, auctioning the real estate in a different order than indicated by the debtor (Article 975 CCP), continuing the auction despite obtaining a price sufficient to satisfy the creditors from the sale of a part of the real estate (in terms of bid real estate that should not be sold – Article 979 CCP), taking into account the incorrect procedure, which turned out to be the last (Article 978 CCP), closing the tender after the second announcement of the offered price (Article 980 CCP) [Cieplą 2018].

Failure to notify a participant in the auction procedure only then constitutes a basis for refusing the award, if the obtained purchase price is not sufficient to satisfy his receivables. On the other hand, the indication of a too high calling price, too low calling price, if the bids exceeded the correctly determined price, failure to provide a warranty by the bidder who failed in the tender are indicated as irrelevant defects in the auction; taking incorrect steps followed by further steps [Wengerek 2009, 580]. The reasons for the refusal of the award are taken into account *ex officio* by the court and assessed from the point of view of the possible impact of the irregularity on the result of the tender.¹⁸

J. Łopatowska–Rynkowska points out that the dominant view is that the enumeration of the grounds for refusal to adjudicate is exhaustive, because the linguistic and purposive interpretation do not provide grounds for its extensive interpretation [Łopatowska–Rynkowska 2007, 166]. In support of this position, the argument that the correction of defective activities of the bailiff is served by judicial supervision by the court pursuant to Article 759(2), Article 960 and 972 CCP and the possibility of submitting a complaint against the actions of the bailiff. In the resolution of October 4, 1972,¹⁹ the Supreme Court emphasized that enforcement against real estate consists of several chronologically successive phases, both in terms of activities before and after the auction. Irregularities in the course of an auction (Articles 972–986 CCP) may be removed by means of a complaint against the bailiff's actions (Article 986 CCP). In the next stage of the proceedings (the award regulated in Articles 987–997 CCP), in which, after the tender is closed, a court order to award the award is issued, a legal remedy is also provided in the form of a complaint against the court's decision to award the award (Article 997 CCP).

CONCLUSIONS

Despite the lack of an unequivocal position, the dominant view is that the enumeration of the reasons for the refusal to grant a confirmation in the light of Article 991 CCP it is exhaustive. The lack of information on the possibility of submitting an application for a combination of enforcement proceedings was not di-

¹⁸ Decision of the SC of 19 April 1999, I CKN 73/99, unpublished.

¹⁹ Ref. no. III CZP 69/72, OSNCP 1973, No. 5, item 74.

rectly indicated in Article 991 CCP and such a request may be submitted earlier, i.e. before the auction starts, but also during the auction. Failure to inform about the possibility of joining the proceedings may affect the proper compliance with the provisions of the procedure within the meaning of Article 991 CCP. It would be pointless if, after carrying out onerous and costly enforcement actions, such as description and assessment, notices about the auction, tender, the legislator would allow the possibility of raising such allegations even after the end of the auction, which the participants could have reported at an earlier stage of the execution. Defective activities of a bailiff may be corrected by means of a complaint against the bailiff's actions and judicial supervision exercised over the bailiff by the district court pursuant to Article 759(2) CCP. Moreover, providing the parties with instructions is not obligatory and, in the light of the provisions of the civil procedure, there is no provision requiring the court to inform the parties about the possibility of submitting an application for joining the proceedings.

In a legal issue to the Supreme Court, in which the Court refused to adopt a resolution²⁰ regarding the significance of the instruction, the District Court doubted whether the lack of instruction by the bailiff or the judge supervising the execution against the cooperative ownership right to the debtors' premises, appearing in the case without an attorney or counselor legal, on the possibility of submitting an application for merging into one proceeding of enforcement directed at shares in a cooperative right to a dwelling (Article 5 CCP in conjunction with Article 13(2) CCP) may constitute the basis for a refusal to grant a confirmation. In this case, the debtors were not instructed about the possibility of submitting an application for a combination of enforcement proceedings. However, it is not clear whether the possibility of exercising this right was known to them, and the more so that the debtors did not raise any statements or allegations in their complaints in this regard. Thus, when analyzing doubts and regulations on the basis of enforcement proceedings, it should be indicated that instructions in enforcement proceedings are of the same importance as in examination proceedings and may involve enabling participants to exercise their rights.

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²⁰ Decision of the SC of 5 December 2019, ref. no. III CZP 33/19, Lex no. 2749464.

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