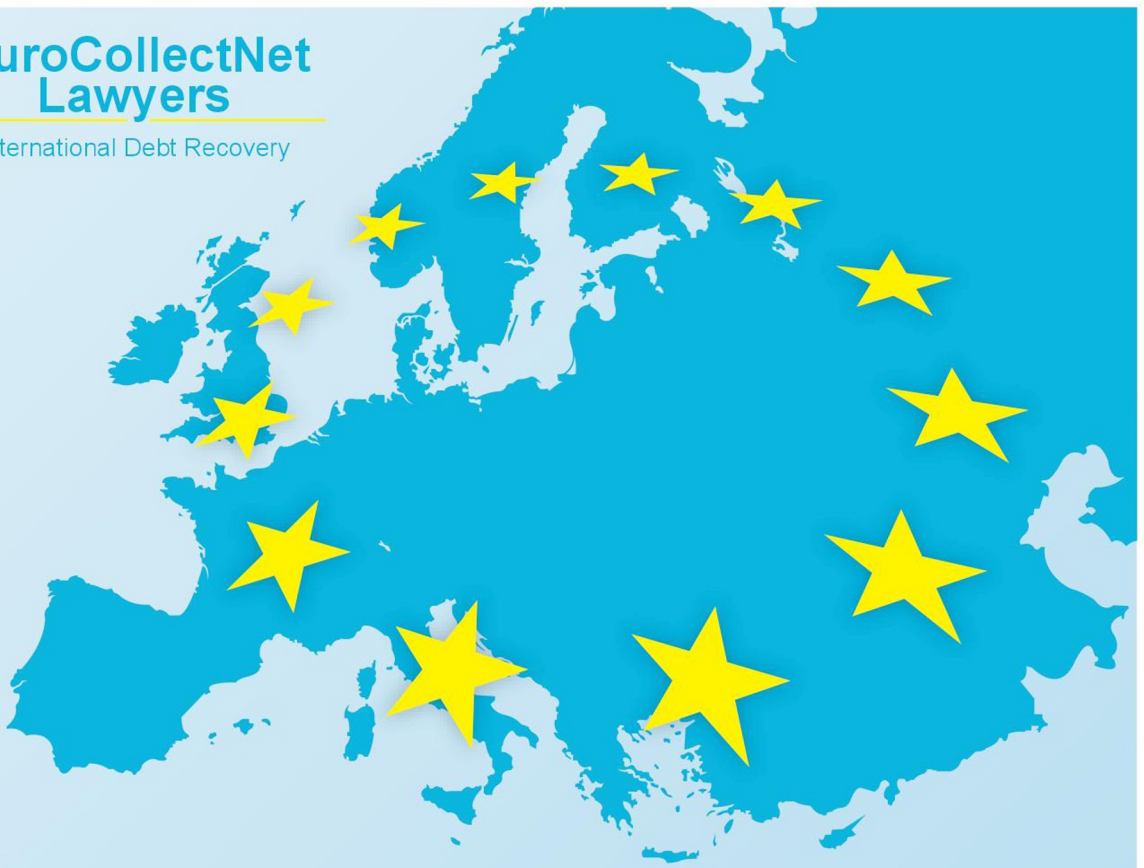


**EuroCollectNet
Lawyers**

International Debt Recovery



Creditmanagement Securities in Europe

2nd Edition

Edited by Dr. Thomas Voller

Creditmanagement Securities in Europe

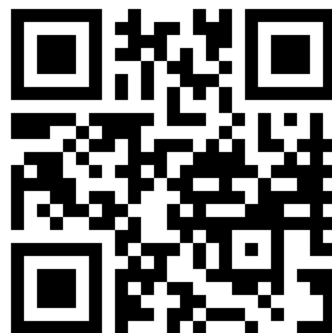
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Foreword to the 2nd edition

This booklet represents a collection of questionnaires from the European members of EuroCollectNet describing securities over assets, guarantees and other forms of security.

EuroCollectNet is a network of independent lawyers having the goal of pursuing cross border claims as efficiently and quickly as possible with the maximum cost savings for the clients. Members comprise only one lawyer per country in Europe. Clients referred to members within the network are provided with the same high level of service as if they were instructing their own lawyer. Beginning in October 2013 non-European firms joined EuroCollectNet on a Best-Friends-Basis. On the website www.EuroCollectNet.com you find such Friends of EuroCollectNet in Africa, America, Asia and Australia.

The purpose of "Securities in Europe" is to show that there are many more possibilities to protect the purchase price claim of a cross-border-seller than signing an export credit insurance. Well known is Retention of Title, but there are various other existing forms: The simple retention of title, the extended version, all money clauses etc. And they differ from country to country. There are securities which are only known in countries which have their roots in the Roman law; for example the notarial statement of debt whereby a debtor or buyer creates an enforceable title against himself by going to a notary confirming the claim, taking over the personal liability for it and accepting the immediate enforcement. There is no court needed anymore. This security is unknown in England and Wales, but it is no problem to ask a French debtor to provide the English-seller with such a notarial deed. Creditmanagement can trade extended payment terms or payment in instalments against such a security provided by the debtor.

This booklet is aimed at sales and credit departments of companies, in-house legal departments as well as Management personal planning to expand operations into new European markets. It may help to secure the interest and claims of the company leaving the own national borders. Today cross-border business within the EU, all over Europe and worldwide is growing from day to day and it is an important part of the responsibility of the Creditmanagement to keep the risks of export as small as possible.

"Securities in Europe" maybe used as a tool box. The answers in the questionnaires should not be treated as a definitive explanation of the law or applicable legal procedures. Each case must be dealt with on its own merits. A questionnaire should not be used as a substitute for obtaining expert professional advice and help from a lawyer.

Finally we would like to mention that each member is responsible for the report of his/ her own country. On the first page is the name of the country and at the end the name of the author. The authors are members of EuroCollectNet, you find them on the website www.EuroCollectNet.com and you may contact them for more details or for assistance.

Frankfurt am Main and Grisy-les-Plâtres, April 2018

Dr. Thomas Voller
Rechtsanwalt und Mediator
Unterschweinstiege 2-14
60549 Frankfurt am Main/ Germany
drvoller@vollerlaw.com

Paul De Drée
de Dree Avocats
19, rue du Vexin
95810 Grisy-les-Plâtres/ France
pdedree@dedree-avocats.fr

ARMENIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate (immovables) are land parcels, subsoil parcels, separate water objects, forests, perennial plantings, buildings, structures, and other property firmly connected with land, i.e., objects whose movement without disproportionate damage to their use is impossible.

What are the most common forms of security granted over real estate and give the names in your language?

Pledge, mortgage.

Formalities/Registration requirements:

Pledge and mortgage contracts must be concluded in written form. Pledge and mortgage contracts are subject to notarial certification and a right of pledge to state registration by the State Committee of Real Property Cadastre of the Government of the RA.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Tangible movable property are self-propelled machinery, machine tools, equipment, flying and floating aids and devices and a list of components which can be classified as a specific property, not withdrawn any other movable property.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Common form of security granted over tangible movable property is liens, retention of title, fixed charge.

Formalities/Registration requirements

The registration of lease right of the movable property pledge contract is carried out by the State Committee of Real Property Cadastre of the Government of the RA.

SECTION 2 - GUARANTEES: ERASHXAVORUTYUN /Personal/, ERASHXIQ /Bank/ **[Give the name in your language]**

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|---|
| • First/On Demand Guarantees | Yes [<input type="checkbox"/>] No [<input checked="" type="checkbox"/>] |
| • Personal Guarantees | Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>] |
| • Bank Guarantees | Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>] |
| • Letters of Comfort | Yes [<input type="checkbox"/>] No [<input checked="" type="checkbox"/>] |
| • Others | |

Formalities/Requirements:

Personal and Bank guarantees must be made in written form. Non-observance of written form entails the invalidity of the contract.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes [☒] No [☐]

If yes, what are the formalities?

The notarial statement of debt can be formed through the payment of deposit to the notary, agreement and contract, which should be made in written form and ratification by notary/

Bill of Exchange Yes [☒] No [☐]

If yes, what are the formalities?

A bill of exchange is a commercial paper evidencing the unconditional obligations of the bill of exchange maker (a simple bill of exchange) or other payer indicated in the bill of exchange (a transfer bill of exchange) to pay upon the expiration of the time period provided by the bill of exchange a sum to the holder of the bill of exchange (the bill of exchange holder).

Cheque Yes [☒] No [☐]

A check is a commercial paper containing an unconditional written instruction of the check drawer to the bank to pay the holder of the check the sum indicated in it. Issuance of a check does not extinguish the monetary obligation in performance of which it was issued.

Letters of Credit

Yes [☒] No [☐]

If yes, what are the formalities?

According to the Civil Code of RA, there are two types of Letters of Credit: Revocable and Irrevocable Letter of Credit. A revocable letter of credit may be changed or revoked by the emitting bank without prior notification to the recipient of funds, but in the case of Irrevocable Letter of Credit can't revoked or changed without the consent of the recipient of funds.

Sergey Brutyan

OOO "Avenue Consulting Group"
Armenia, 0010 Yerevan, ul. Tchaikovskogo, 34/1, Armenia
mail@schulzebrutyan.com

AUSTRIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate belong to the immovable property. All that is in permanent association with a real estate (land), thereby buildings, aboveground and underground facilities etc. therefore also belong to the immovable property and share in doubt, the legal fate of the main thing "real estate".

What are the most common forms of security granted over real estate and give the names in your language?

- Mortgage (Hypothek)

A mortgage is the transfer of rights to a real estate to a creditor as security for the debt to him. If the debtor does not pay, the creditor can satisfy its claims from the mortgage.

Formalities/Registration requirements:

The mortgage requires a pledging agreement or a pledging promise and the in rem agreement on the acquisition of a lien. A mortgage over real estate is valid only when it has been signed notarized and registered with the land register (Grundbuch). The mortgage must be registered in schedule C (Lastenblatt; C-Blatt) in the land register. A pledge expires, if the debt was repaid and the mortgage has been deleted from the land register.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Tangible movable property is an object that can be moved from one place to another without damaging its substance. Examples are goods, cars, trains or inventory. Rights are counted among the movable property in case they are not connected to the possession of immovable property or declared as an immovable property (eg right of repurchase, mortgage, personal servitude). Even with a building on third party land (Superädifikat) or when buying a house for demolition, the buildings are movable property.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- Pledge (Pfand)

The creditor takes from the debtor, as security for the claim, an asset into custody. He can sell the asset if the debtor defaults on its obligation and thereby obtain satisfaction.

- Security Transfer (Sicherungsübereignung)

The creditors will receive ownership of an item to secure its claims until this has been paid in full.

- Assignment for Security (Sicherungsabtretung):

The assignment of security is the transfer of the rights of the debtor in a claim to the creditor. If the debtor is in default, the creditor make use of the assigned claim and seek the payment directly from the third person (third-party debtor).

- *Retention of Title (Eigentumsvorbehalt):*

Simple: The seller assigns the item to the buyer under the condition precedent of timely full payment. The seller retains ownership until the buyer has fully paid the purchase price.

Extended: Not recommended.

Formalities/Registration requirements

- *Pfand:*

A pledge requires a pledge agreement but there are no formal requirements in relation to the agreement. The pledge takes effect only through physical handover from debtor to creditor. In some cases if this is not feasible, a handover by signs, such as a certificate (eg for ships and aircrafts) or a tool such as keys is possible, but not recommended. For safety, a written agreement should be concluded with the details. After completion of loan repayment, the creditor is obliged to transfer the property back.

- *Security Transfer (Sicherungsübereignung):*

The same as with pledge. The security transfer takes effect only through physical handover.

- *Assignment of Security (Sicherungsabtretung):*

Must conform to disclosure requirements. This is satisfied if either the third-party debtor got informed or - for demands recorded for bookkeeping - a written assignment agreement connected to a notation (which must indicate to whom the assignment is carried out and on what demands it concerns) in the books ("Buchvermerk") takes place. Informing the third-party debtor and book-entry are equally publicity acts. Therefore, informing the third-party debtor is sufficient also for demands recorded for bookkeeping.

- *Retention of Title (Eigentumsvorbehalt):*

Simple: The retention of title must be agreed prior to purchase and must be in writing.

Extended: Not recommended, as it is an extension of the retention of title without necessary publicity obligations for such securities (see above pledge, security transfer or assignment of security).

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intangible property are especially rights (credit rights and intellectual property rights) and services.

Examples are: Concessions (trade licenses, supply rights of utility companies), Industrial property rights (patents, trademarks, service marks, registered designs), Rights of use (tenancy rights, housing rights, distribution rights, building rights, licenses), goodwill, software, investment, requirements, Domain addresses, bonds, shares, claims etc.

What are common forms of security granted over intangible movable property?

- *Pledge (Pfand):*
The right will be transferred from the debtor to the creditor as security for the claim. He can sell (possibly by public auction) the right and in some case exists the possibility of forced administration or forced lease if the debtor defaults on its obligation and thereby obtain satisfaction. The following rights can be subject of a pledge:
Expectant rights (the conditional purchaser, guarantor for security transfer), intellectual property rights (patents, trademarks and design rights, not: copyright), Internet domains, rights are neither personally nor inextricably linked with a dominant plot are (pledge itself, building rights, usufruct rights) shares in stock corporation (private limited company, joint stock company), claims of shareholders to dividend, claims (if they are not personally or unseizable, eg compensation for pain and suffering , claim to reserved portion, claim to official liability .);
Not to be pledged are rights that are inextricably linked to the ownership of a controlling land or that serve the needs of the creditor (eg right to use the accommodation) and personal rights (right of repurchase, ban on loan and resale, public approvals)
- *Assignment for Security (Sicherungsabtretung):*
Rights and claims can be assigned by assignment of security. The rights are therefore transferred to a third person for hedging purposes (see details above “tangible movable property”). The following rights can be subject to an Assignment for Security:
Demands, claims from an insurance, leases, pledge, claims from a guarantee, shares

Formalities/Registration requirements

- *Pledge:*
Basically the same as above “tangible movable property”. As a physical hand-over is not possible in most of the cases the transfer takes place in a different form. In many rights the justification of the pledge takes place by register the rights in a public register (§§ 21 f Design Protection Act; § 43 Patent Act; § 28 Brand Protection Act; 69, land register). Demands that are certificated in bearer and order papers may be pledged by handing over the certificate. This concerns, for example, bonds and savings books or bearer policy.
Securities that do not exist as a physical document, such as private limited company shares, will be transferred in this form that the third party debtor, such as the Company or the Bank, will be informed about the pledge.
- *Assignment for Security:*
See above “tangible movable property”. The jurisdiction requires the written form of the Assignment for Security.

SECTION 2 - GUARANTEES:[Give the name in your language]

Are guarantees used in your jurisdiction? Yes [x] No []

What types of guarantees are used in your jurisdiction?

- | | |
|---|------------------|
| • First/On Demand Guarantees (<i>Garantie auf erste Anforderung</i>) | Yes [x] No [] |
| • Personal Guarantees (<i>Bürgschaft</i>) | Yes [x] No [] |
| • Bank Guarantees (<i>Bankgarantie</i>) | Yes [x] No [] |
| • Letters of Comfort (<i>Patronatserklärung</i>) | Yes [x] No [] |
| • Others | |

Formalities/Requirements:

- *First/On Demand Guarantees:*

No specific formality but should be in writing.

- *Personal Guarantees:*

Declaration of commitment of the guarantor must be in writing.

- *Bank Guarantees:*

Contractual relationship between debtor and guarantee bank. Guarantee agreement between the bank and the beneficiary. Guarantee policy must be in writing.

- *Letters of Comfort:*

Contractual relationship between debtor and the patronage (usually a parent company) which furnishes the guarantee. Letter of Comfort of patronage to the creditor that the debtor will perform a particular service (in certain circumstances through support of patronage). No specific formalities but should be in writing.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt (*notarielles Schuldanerkenntnis*) Yes [x] No []

If yes, what are the formalities?

Must be established in writing by a notarial deed.

Bill of Exchange (*Wechsel*) Yes [x] No []

If yes, what are the formalities?

The drawn bill of exchange must be in writing and contains:

- *designation as bill of exchange in the certificate, in the language in which it is issued;*
- *unconditional order to pay a certain sum of money;*
- *name of the person who is to pay (drawee);*
- *indication of expiry time;*
- *indication of the place of payment;*
- *name of the person is to be paid to or to whose order is to be paid;*
- *indication of the day and place of issue;*
- *signature of the drawer.*

Cheque (Scheck)

Yes [x] No []

Formalties:

The cheque must be in writing and includes:

- *designation as cheque in the certificate, in the language in which it is issued;*
- *unconditional order to pay a certain sum of money;*
- *name of the person who is to pay (drawee);*
- *indication of the place of payment;*
- *indication of the day and place of issue;*
- *signature of the drawer.*

Letters of Credit (Akkreditiv)

Yes [x] No []

If yes, what are the formalities?

No specific formalities. Should be in writing.

Elisabeth Mayer-Wildenhofer

Kraft Rechtsanwalts GmbH
Heinrichsgasse 4, 1010 Wien, Austria
e.nayer@kwlaw.at

BULGARIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS (“ОБЕЗПЕЧЕНИЯ”):

Real Estate

What is considered real estate in your jurisdiction?

As per article 110 of the Law on Property immovable assets are: land, plants, buildings and other structures and in general everything that is naturally or by the action of man permanently attached to the land or building. All other items, including energy, are movable.

What are the most common forms of security granted over real estate and give the names in your language?

(1) mortgage (“ипотека”), which may be either legal (“законна ипотека”) established by law (e.g. in favour of a seller), or contractual (“договорна ипотека”) established by contract, (2) special pledge (“особен залог”) where the real estate forms part of pool of assets, (3) retention right (“право на задържане”) (e.g. of bona fide holder for improvements made to the real estate), and (4) privilege (“привилегия”) set by the law preferential order for satisfaction.

Formalities/Registration requirements:

The mortgage and the special pledge must be registered by filing appropriate documents at the Real Estate Registry, respectively the Central Pledges Registry, failing which the creditor will not be in a position to oppose its security to third parties. In addition, the “ипотека” must be drafted in a deed established by a Bulgarian notary (“нотариус”), for being legally valid, otherwise it is null and void.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Everything that is not immovable property, including energy, is regarded movable property.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

(1) Pledge (“залог”) is established under a contract and the owner is dispossessed of its movable property.

(2) Special pledge (“особен залог”) is established under a contract and the owner is not dispossessed of its movable property.

(3) Retention of title (“задържане на собствеността”) applies over the purchase price not yet paid by the purchaser.

(4) Retention right “право на задържане” is a general security granted to the creditor who is effectively holding in good faith the movable or immovable property, and allows it to retain the asset as long as the debtor has not fulfilled its counter obligation.

(5) Privilege (“привилегия”) set by the law preferential order for satisfaction.

Formalities/Registration requirements

Most of the movable securities are not registered as they are established by operation of law. The special pledge must be registered with the Central Pledges Registry. Securities over airplanes and ships must be registered in special registries.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Bulgarian law does not recognise intangible movable property. It only differentiates between movable and immovable property. IP rights, securities, claims are different type of rights.

What are common forms of security granted over intangible movable property?

The common form of security over IP rights, securities, claims etc. is pledge (“залог”).

Formalities/Registration requirements

Formalities depend on the type of right which is pledged. For example, pledge of IP rights is registered with the Bulgarian Patent Office whereas pledge of paper form shares in a joint stock company does not require registration. The latter is done by signing a written pledge statement („джуро“) on the back of the document.

SECTION 2 – GUARANTEES (“SÛRETES PERSONNELLES”):

Are guarantees used in your jurisdiction?

Yes ☒ No ☐

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**
- **Bank Guarantees**
- **Letters of Comfort**
- **Others:**

Yes ☐ No ☒

Yes ☒ No ☐

Yes ☒ No ☐

Yes ☐ No ☒

Formalities/Requirements:

The guarantee must be given in written form.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction?

Notarial statement of debt

Yes ☐ No ☒

If yes, what are the formalities?

Bill of Exchange

Yes ☒ No ☐

If yes, what are the formalities?

No specific formality, but obviously the bill of exchange must comply with legal rules.

Cheque

Yes ☒ No ☐

Letters of Credit

Yes ☒ No ☐

If yes, what are the formalities?

No specific formality, but obviously the security must comply with legal rules.

Plamen Borissov

Borissov & Partners

53-55 Gen.Totleben Blvd, Sofia 1606, Bulgaria

office@borissov-law.com

CROATIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

According to Article 2 paragraph 3 Croatian Act on Ownership and Other real Rights, real estates are parcels of the earth's surface, together with everything that is permanently affixed to land on or below the earth's surface, unless provided otherwise by law. According to Article 9 real estate in particular is the following:

- *A single real property consists of the land plot, including everything that is reasonably permanently affixed to it on the surface or below it; however, when several land plots are registered in the land register in the same land register file, they are legally unified into a single unit (registered land unit), which as such forms a single piece of real property.*
- *Grass, trees, fruits and all usable things growing from the earth on its surface are parts of the real property until they are separated from the ground.*
- *Anything that is erected on, above or below the surface, and the purpose of which is to remain there permanently, or anything that is built into the real property, added to it or built onto it, or joined to the real property in any other way, is part of such real property until it is separated from it. However, those buildings and other that is joined with the land for only transitory purposes are not part of the land.*
- *Buildings and other structures permanently connected to the land if they are legally separated from it by a real right which authorises its holder to own such a building or other structure on somebody else's land are not part of the land, and the same applies accordingly to buildings and other structures which are legally separated from the land or a common thing by a concession based on law authorising its holder to own such a building or another structure thereon.*
- *Machines and similar equipment which would otherwise be part of real property are not regarded as its part, but as independent things if upon consent of the owner of real property it has been registered in the land register that they are owned by another person. The recordation has effect until it is deleted from the land register; its effect terminates even if the recordation is not deleted five years after making the entry, but the time limit is stayed during bankruptcy and execution proceedings.*
- *Rights in favour of real property are regarded as a component part of the real property.*

What are the most common forms of security granted over real estate and give the names in your language?

Forms of security granted over real estates are:

1. *Voluntary lien or mortgage ("dobrovoljno založno pravo" or "hipoteka")*
2. *Judicial and notarial security by transfer of ownership – fiducial security ("sudsko i javnobilježničko osiguranje prijenosom vlasništva" – "fiducijarno vlasništvo")*

Formalities/Registration requirements:

Formalities/Registration requirements are as follows:

- *agreement on establishing security – to be certified or notarised by a public notary*
- *proposal to the Court – Land registry for registering*
- *court decision on registration with the Land registry*

Any form of security granted over real estate is effective when registered within the Land registry.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

According to Article 2 paragraph 4 Croatian Act on ownership and Other real Rights, movable property are things that can be moved from one location to another without jeopardising their substance. Things movable by nature are regarded as real property in the legal sense if they are part of an immovable thing or if extended equal status as real property by law. Examples for tangible movable properties: plant and machinery, vessels, ships, airplanes, household and personal assets, computers, pictures, stocks.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Forms of security granted over tangible movable property:

1. *Voluntary liens (“dobrovoljno založno pravo” založno pravo”)*
2. *Judicial and notarial security by transfer of ownership – fiducial security (“sudsko i javnobilježničko osiguranje prijenosom vlasništva – fiducijarno vlasništvo”)*

Statutory lien (“zakonsko založno pravo”) - for example:

- *according to provision of Article 565 of Croatian Civil obligations Act, the lessor of a real estate shall have a lien on the thing brought in by the lessee for due rent and other claims arising from the lease contract that may be the subject of seizure and may retain them until settlement of such obligations.,*
 - *according to provisions of Croatian Act on Obligatory and Proprietary Rights in Air Traffic statutory lien to an aircraft exists for court fees incurred in the joint interest of all creditors or security creditors during the procedure of enforcement or security with a view to safekeeping the aircraft or conducting the involuntary sale, for claims relating to the payment of the costs and the reward owed for search or rescue of the aircraft, for the claims of a person who incurred extraordinary costs necessary to safe keep the aircraft.*
3. *Retention of Title (“pridržaj prava vlasništva”) - according to Article 462 of Croatian Civil obligations Act, a seller may retain the right of ownership of a thing by a special contractual provision even after delivery of the thing to the seller until receiving full payment of the price. When in doubt, it shall be deemed that the right of ownership is transferred under a condition precedent of full payment of the price and that the seller is authorised to terminate the contract if the buyer defaults on his payment.*
 - **Simple effect** - *the buyer does not acquire ownership of the object of the purchases agreement until the purchase price is paid.*
 - **Extended effect** - *legal effect of the institute of retention of title is extended regarding unconscientious third parties. But, retention of ownership granted over*

movable shall not enable acquisition of ownership by any person who acquires independent possession of a movable in good faith by a legal transaction for consideration concluded in order to acquire the right of ownership with a possessor to whom the thing does not belong or who is not authorised to dispose of it in legal transactions, is deemed to have acquired ownership of the thing.

- *In case the buyer is a legal entity, retention of the right of ownership of a movable thing shall have effect as regards the buyer's creditors only if effected in the form of a certified document prior to the buyer's insolvency (bankruptcy) proceedings or seizure of the thing.*
- *This form of security can be granted over movable property, such as cars, machinery, computers, artwork, furniture, agricultural crops, livestock, the totality of things (e.g. of goods in the warehouse).*
- *On movable things entered into special registries right of ownership may be retained only if stipulated by regulations governing the structure and maintenance of such registries.*

Formalities/Registration requirements

1. Voluntary liens (“dobrovoljno založno pravo”)

- *agreement on establishing security – to be certified or notarised by a public notary*
- *proposal for registration within the corresponding Register, for example:*
 - *ships - Register of ships and yachts,*
 - *airplanes - Croatian register of civil aircraft*
 - *other movable property, for example, vehicles, machinery, computers, artwork, furniture, agricultural crops, livestock, the totality of things (eg. of goods in the warehouse) - Register on court and notary public insurance kept by Financial Agency (FINA)*
- *decision on registration of competent body,*

2. Judicial and notarial security by transfer of ownership – fiducial security (“sudsko i javnobilježničko osiguranje prijenosom vlasništva – fiducijarno vlasništvo”)

- *same procedure as stated above,*

3. Statutory lien and the right of retention (“zakonsko založno pravo i pravo zadržanja”)

- *no formalities with the following exception: statutory lien over aircraft can be registered in Croatian register of civil aircraft but it is not obligatory*

4. Retention of Title (“pridržaj prava vlasništva”)

- *the law does not require obligatory form for this agreement, but it is certainly recommendable for the agreement to be in writing and certified by the public notary since only in certified form shall have effect as regards the buyer's creditors in case of buyer's insolvency (bankruptcy) proceedings or seizure of the thing,*
- *proposal for registration within Register on court and notary public insurance only if the retention period is longer than one year,*
- *decision on registration.*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Croatian jurisdiction does not differ tangible and intangible property so here is applicable what is stated above regarding tangible movable property. Examples for intangible movable property are: patents, licenses, concessions, trademarks, software, franchise, goodwill, shares.

What are common forms of security granted over intangible movable property?

1. *Voluntary liens ("dobrovoljno založno pravo") - according to Article 310 of Act on ownership and other real rights creditors acquire voluntary liens on bearer securities in the same way as on movables, on papers based on an order by lien endorsement, on registered papers, and on claims – by assignment for insurance purposes and by notifying the debtor's debtor on the assignment, and on other rights according to the modality foreseen for transferring such rights, unless provided otherwise by law.*
2. *Judicial and notarial security by transfer of rights – fiducial transfer of rights ("sudsko i javnobilježničko osiguranje prijenosom prava – fiducijarni prijenos prava")*

Formalities/Registration requirements

1. *Voluntary liens ("dobrovoljno založno pravo")*
 - *agreement on establishing security - to be certified or notarised by a public notary*
 - *proposal for registration:*
 - *in the Register within the Croatian Central Depository & Clearing Company Inc. in case the lien is granted over share,*
 - *in the Register on court and notary public insurance kept by Financial Agency (FINA) in case the lien is granted over other intangible movable property,*
 - *decision on registration.*
2. *Judicial and notarial security by transfer of rights - fiducial transfer of rights ("sudsko i javnobilježničko osiguranje prijenosom prava – fiducijarni prijenos prava")*
 - *agreement on establishing security - to be certified or notarised by a public notary*
 - *proposal for registration in the Register on court and notary public insurance kept by Financial Agency (FINA),*
 - *decision on registration.*

SECTION 2 - GUARANTEES:[“ JJAMSTVA”]

Are guarantees used in your jurisdiction?

Yes [x] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**

(“*Garancija na/prvi poziv*”)

Yes [x] No []

- **Personal Guarantees**

(“*Osobna jamstva*”)

Yes [x] No []

- **Bank Guarantees**

(“*Bankarske garancije*”)

Yes [x] No []

- **Letters of Comfort**

(“*Izjava o patronatu*”)

Yes [x] No []

Please note that this institute is not regulated by the law but it is commonly used in business transactions. Its effect is morally binding.

- **Others**

Formalities/Requirements:

- *First/On Demand Guarantees (“Garancija na/prvi poziv”), respectively On Demand Bank Guarantees (“bankarske garancije na poziv”)*

- contractual, no registration needed, written form obligatory.

- *Personal Guarantees*

- promissory note (“zadužnica”) as personal guarantee: unilateral, written form obligatory and official forms are provided; promissory note must be notarised by the public notary and is subject to registration in Registry of promissory notes at the Croatian Public Notary Bar Association,*

- letter of guarantee regarding bill of exchange (“aval ili mjenično jamstva”)- unilateral, no registration required, it is established by signing the bill of exchange,*

- contractual (accessory) personal guarantee - written form obligatory.*

- *Bank guarantees (“Bankarske garancije”) - contractual, no registration needed, written form obligatory.*

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [x] No []

(“*Javnobilježničko priznanje duga*”)

If yes, what are the formalities?

A contract by which a debtor officially declares a debt which is certain, liquid and due to a creditor. The contract has to be notarised by the notary public in order to qualify as enforcement deed, so that it may be enforced by the creditor before the Court.

Bill of Exchange

Yes [x] No []

(“*Mjenica*”)

If yes, what are the formalities?

Written form is obligatory, official forms are provided, no certification is required.

Cheque

Yes [x] No []

("Ček")

Written form is obligatory, official forms are provided.

Letters of Credit

Yes [x] No []

("Akreditiv")

If yes, what are the formalities?

Contractual, written form is obligatory.

Kristijan Kovač

KOVAČ & PARTNERI odvjetničko društvo d.o.o.

Šoštarićeva 10, 10000 Zagreb, Croatia

kristijan.kovac@kovac.hr

CYPRUS

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

According to The Immovable Property (Tenure, Registration and Valuation) Law (Cap.224), Immovable property (real estate) in Cyprus is:

- (A) land;*
- (B) buildings and other constructions, buildings or attachments that are solidly connected to any land or any building or other structure or building;*
- (C) trees, vineyards and every other thing that was planted or that grows in any land and any fruits thereof before separation;*
- (D) sources, wells, water rights and water whether they are held together with any land or independently of it;*
- (E) privileges, liberties, easements and any other rights and benefits that are or are deemed to belong to any land or any building or other structure or building*
- (F) undivided ideal property portion set forth above;*
- (G) land created after backfilling of the sea;*

What are the most common forms of security granted over real estate and give the names in your language?

A sale of real property or charge it with the registration of the judgment, property escrow, seizure of property in the hands of a third party.

Any judgment or order of the Court for the withdrawal or surrender of real property ownership may be performed with possession warrant ordering the Court Bailiff to the execution of judgments or other officer to deliver possession of the property in on judicial creditor judgment.

Formalities/Registration requirements:

No execution warrant for sale of immovable property shall be issued except with the consent of the debtor, unless the sale of movable property warrant debt debtor issued by the Court and sent to the court Province of decisions in which the Court found were returned unexecuted in Court or unless it appears that the debtor has actually been in the possession of movable property.

The immovable property of the judgment debtor's debt, which may be sold in execution will include only the registered immovable property is registered in the name of the books of the District Land Office.

Tangible Movable property

What is considered movable property in your jurisdiction?

In Cyprus the Civil Procedure Rules pronounce that anything that cannot fall in the category of immovable property, it would be considered movable property. However, in the manner of executing a Judgment over the movable property of a debtor, the Civil Procedure rules states that the following property exempts from enforcement:

1. *The necessary clothing, necessary beds and mattresses of the debtor and his family;*
2. *the necessary kits for cooking, furniture, as well as TV, refrigerator, washing machine, stove or gas cooker, radio, air conditioners, computers or any device used from children to study, and any medical equipment may be used for the family;*
3. *necessary for the performance of the profession, art, industry and trade or employment the debt debtor books, tools, gears, containers, computers or equipment, whose total value does not exceed ten thousand euros (€ 10.000) .*
4. *the necessary agricultural mechanical fittings or equipment or animals, whose value does not exceed twenty thousand euro (€ 20,000);*
5. *the lower value motor vehicle is necessary for handling debt debtor and his family or for his work;*
6. *any item that is necessary for the use of animal and agricultural mechanical parts or equipment which are excluded;*
7. *the food that is required for feeding animals for six months are excluded;*
8. *commissions for three months for debtor and his family;*
9. *if the debtor is a farmer, sufficient number of animals to continue its work;:*

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Any sale of movable property to enforcement of a judgment made by public auction, unless the Court orders otherwise in accordance with any instructions given by the Court wake application of any interested merous0 but the Court may order that the sale carried out in such otherwise, as it may deem fit.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

There is no distinction of tangible and intangible movable property per se, but the English Legal System and Civil Procedure Rules of English Law will be applied.

What are common forms of security granted over intangible movable property?

Formalities/Registration requirements

SECTION 2 - GUARANTEES: ΕΓΓΥΗΣΕΙΣ - ENGYÍSEIS [Greek]

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|----------------|
| • First/On Demand Guarantees | Yes [X] No [] |
| • Personal Guarantees | Yes [X] No [] |
| • Bank Guarantees | Yes [X] No [] |
| • Letters of Comfort | Yes [X] No [] |

Formalities/Requirements:

It depends from the nature of the Guarantee and what is the subject of the guarantee. A guarantee must be in written and accepted directly or indirectly by the creditor/other party. The guarantor must provide all necessary documents to prove his/her capability of undertaking the legal responsibilities of the debtor.

Within an agreement of Loan, a guarantor would be charged for the amount he/she guaranteed for and the Judgement can be executed with the same way as if it was the debtor.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

Bill of Exchange is an unconditional order in writing addressed by one person to another, signed by the person who gives and which requires the person to whom it is addressed to pay on demand or at a fixed or specified future time certain amount of money to a designated person or a designated person or bearer order.

A document which does not meet these conditions, or that such orders do any act in addition to the payment of money, is not an exchange.

Authorization of special fund is not unconditional but payment order without conditions with an indication of the special fund from which the recipient will recover the amount or special account to be debited with the amount, or a statement of the transaction which is the cause of the exchange, is unconditional.

Cheque

Yes [X] No []

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

There is not a specific regulation. Same formalities than the other securities will be applicable.

Dona Constantinou

George Y. Yiangou & Co.

12 Kennedy Avenue, Kennedy Business Centre, 1703 Nicosia, Cyprus

dona.c@yiangou.com.cy

CZECH REPUBLIC

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Upon § 498 of the Czech Civil Code real estate is land and underground buildings with separate purpose intention and rights in rem and other rights defined by law as real estate.

Component part of the land is space upon the land and under the land, buildings on the land with exception of temporary buildings.

Land, buildings if not part of the land, flat and business property are registered in the Land Register.

What are the most common forms of security granted over real estate and give the names in your language?

- mortgage (in Czech "zástavní právo")
- transfer of title as security of obligation (in Czech "zajišťovací převod práva")
- pre-emptive right (in Czech "předkupní právo")
- restriction of encumbrance or alienation (in Czech "zákaz zatížení nebo zcizení")

Formalities/Registration requirements:

Mortgage is established by security contract. In this security contract parties agree on subject of the security and debt which is secured. Signatures of the parties to the security contract must be certified. Mortgage to real estate is effective upon registration in the Land Register.

Transfer of title as security of obligation is made upon agreement between debtor or third party and creditor by which debtor or third party transfers temporarily his rights. If transfer of the title is connected with the real estate, it is effective upon registration in the Land Register.

If the pre-emptive right and restriction of encumbrance or alienation are agreed as rights in rem it should be also registered in the Land Register.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Definition of thing is stated in the Czech Civil Code in § 489 upon which thing in legal sense is everything different from person and serves needs of people. Tangible thing is controllable part of the external world that has character of separate subject. Movable things are those that are not real estate. So upon these definitions tangible movable property can be almost everything – trade stock, goods, plant and machinery, vessels etc.

What are common forms of security granted over tangible movable property?

- pledge (in Czech "zástavní právo")
- transfer of title as security of obligation (in Czech "zajišťovací převod práva")
- pre-emptive right (in Czech "předkupní právo")

- restriction of encumbrance or alienation (in Czech “zákaz zatížení nebo zcizení”)
- Retention of Title (in Czech “zadržovací právo”)

Who has the obligation to give somebody else’s tangible movable property that he possesses, he may retain this tangible movable property as security of the mature debt of the person to whom he should give it otherwise.

Retention right is not possible in case the person possesses the movable property without right. Creditor who possesses this tangible movable property can settle a debt from the sale of the movable property before other creditors.

Formalities/Registration requirements

Pledge is established by security contract. In the security contract parties agree on subject of the security and debt which is secured.

If the tangible movable property is not given to the creditor, the contract must be in written form. Notarial deed about the pledge is written in case subject of the pledge is plant, other immovable thing which is not registered in Land Register. Special requirements are in case of business share, stock, claim and vessels when there is necessary registration in commercial register (register of airplanes) etc.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Definition of thing is stated in the Czech Civil Code in § 489/2 upon which intangible movable property are rights and other things without material nature (for example trademarks, patents, claims, bonds, shares).

What are common forms of security granted over intangible movable property?

- pledge (in Czech “zástavní právo”)

Formalities/Registration requirements

Pledge is established by security contract. In the security contract parties agree on subject of the security and debt which is secured. The contract must be in written form. Special requirements are in case of trademarks and patents where the pledge must be registered in register of trademarks or patents. Also in case of share it must be registered in the commercial register.

SECTION 2 - GUARANTEES: in Czech “ručení”

Are guarantees used in your jurisdiction?

Yes ☒ No ☐

What types of guarantees are used in your jurisdiction?

- | | |
|------------------------------|---|
| • First/On Demand Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Personal Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Bank Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Letters of Comfort | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| • Others | |

Formalities/Requirements:

For guarantees is obligatory written form. Guarantee can be provided if the debt is existing, also future debt can be guaranteed. Creditor is entitled to ask for payment guarantor if the debt is not settled by the debtor provided he was asked by creditor in written form.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [x] No []

If yes, what are the formalities?

In the Czech Republic it can be written by notary or executor. Notarial deed has form of public document. It must be written with presence of the debtor and creditor (or his representative) before the notary or executor. In the notarial deed shall be specified debt and obligation of the debtor to pay the debt. With this notarial deed creditor can start execution proceeding without the necessity to go to the court and prove the claim at court.

Bill of Exchange

Yes [x] No []

If yes, what are the formalities?

The formal requirement shall be met at the time the Bill of Exchange is mature, not necessarily at the time of issuing. The requirements are set in the Act No. 191/1950 Coll., about the bill of exchange and cheque.

There are two possibilities of the Bill of Exchange. One possibility is that the obligator is the issuer and it is Promissory Note (in Czech “směnka vlastní”). The other form is Bill of Exchange when there are three parties – issuer, debtor and creditor (in Czech “směnka cizí”).

Requirements of the Bill of Exchange are set by law and are following:

- 1. The term “Bill of Exchange” inserted in the body of the instrument and expressed in the language employed in drawing up the instrument*
- 2. An unconditional order to pay a determinate sum of money;*
- 3. The name of the person who is to pay (drawee);*
- 4. A statement of the time of payment;*
- 5. A statement of the place where payment is to be made;*
- 6. The name of the person to whom or to whose order payment is to be made;*
- 7. A statement of the date and of the place where the bill is issued;*
- 8. The signature of the person who issues the bill (drawer).*

The Promissory Note contains:

- 1. The term “Promissory Note” inserted in the body of the instrument and expressed in the language employed in drawing up the instrument*
- 2. An unconditional promise to pay a determinate sum of money;*
- 3. A statement of the time of payment;*
- 4. A statement of the place where payment is to be made;*
- 5. The name of the person to whom or to whose order payment is to be made;*
- 6. A statement of the date and of the place where the promissory note is issued;*
- 7. The signature of the person who issues the instrument (maker).*

An instrument in which any of the requirements mentioned above is not met is invalid as a Bill of Exchange or Promissory Note, except in case:

- 1. if the time of payment is not specified, it is deemed to be payable at sight.*
- 2. in default of special mention, the place specified beside the name of the person obliged to pay is deemed to be the place of payment, and at the same time the place of the domicile of the person obliged to pay.*
- 3. if it does not mention the place of its issue, it is deemed to have been drawn in the place mentioned beside the name of the issuer.*

Cheque (in Czech “šek”)

Yes [x] No []

Using cheque in the Czech Republic is very rare.

Letters of Credit (in Czech “akreditiv”)

Yes [x] No []

If yes, what are the formalities?

Letter of Credit is agreed upon the contract between the issuer and mandatory to pay specific amount to the beneficiary in written form. Letter of credit is usually used as payment instrument in the Czech Republic, using it as security is very rare in the Czech Republic.

Tomáš Rašovský

Tomas Rasovsky Advocat /Attorney at law
Kotlarska 51a, 60200 Brno, Czech Republic
rasovsky@rasovsky.cz

UNITED KINGDOM

ENGLAND & WALES

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate in the UK is considered to be land, including any property or other fixtures contained on that land.

What are the most common forms of security granted over real estate and give the names in your language?

- *Legal mortgage*
- *Equitable charge*
- *Fixed charge*

1. *Legal Mortgages*
2. *Equitable charges*
3. *Fixed Charge/Debenture*

Formalities/Registration requirements:

1. Legal Mortgages

Legal mortgages are the most common form of security over property in the UK as they are the most secure form of security. A legal mortgage is a security interest in real estate and is most commonly given as security by a borrower of money to a lender.

The key formalities/requirements for legal mortgages are that they must be in writing and executed as a deed by the borrower. Almost all legal mortgages must be registered at the Land Registry.

2. Equitable Charges

An equitable charge does not pass ownership or possession to a creditor but gives the lender the right to the judicial process for recovery of the loan in the case of non payment.

Equitable charges must be in writing and signed by the borrower (and on occasions, the security holder / mortgagee). They will usually be executed as deeds.

3. Fixed Charge

A fixed charge can be taken by a lender over property. The fixed charge provides a lender with security over the property charged as security for payment of a debt. The lender will not obtain ownership or possession of the property being charged but will gain rights over the property. The borrower is free to use the asset(s) charged subject to the terms of the fixed charge.

If given by a company the charge should be registered at Companies House within 21 days of creation as well as at the Land Registry.

Like equitable mortgages, fixed charges should be in writing and signed by the borrower (and on occasions, the security holder / mortgagee). They will usually be executed as deeds.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

Tangible moveable property can also include (among others) ships, aircraft, agricultural stock, plant and machinery, stock and inventory, office equipment, airplanes, and shipping containers. HM Revenue & Customs in the UK defines “tangible movable property” as “things that you can touch and move.” These are commonly known as Chattels. Examples are “art, antiques, jewellery, fine wine, boats, classic and vintage cars, stamp collections, rare books.”

What are common forms of security granted over tangible movable property?

- *Fixed charge*
- *Floating charge*
- *Retention of Title*
- *Chattel mortgages*

1. Fixed Charges

Fixed charges can be taken over chattels provided the chattel being secured is definite and clearly identifiable. They can be granted by anyone, including individuals.

A fixed charge can be obtained on specific assets or a group/class of assets. Once obtained, the lender will have control of the asset but the borrower will only be able to use it the asset subject to the terms of the fixed charge. A company is unlikely therefore to grant a fixed charge over assets which constantly change, for example, stock.

It is the control element that deems a charge to be fixed. If the lender does not have control over the asset charged, a charge is more likely to be a floating charge. Fixed charges provide better security than floating charges.

2. Floating Charges

Floating charges can only be granted by companies and limited liability partnerships. The asset(s) being charged do not need to be specific and clearly identifiable, rather a floating charge applies to a class or group of assets and can cover all the assets of the borrower at the time of the grant of the floating charge and future assets with a view to binding all assets in existence at the time the lender enforces its charge when the floating charge becomes a fixed charge.

The assets subject to a floating charge may change over time, for example stock may be sold. Until a future step is taken in respect of the charged class/group, a company may continue in its usual course of business and use of the charged asset(s), which is one of the main benefits of a floating charge; they are more flexible than fixed charges.

It is worth noting that a commercial lender will often take both fixed and floating charges at the same time in a debenture.

3. Retention of Title

Title to property can be retained contractually providing the correct wording is used (seek legal advice).

4. Chattel Mortgages

A chattel mortgage creates a mortgage over a moveable item of property. It is created when the legal title to a chattel is mortgaged by way of security for a loan. Some of the items listed above as tangible movable property could be subject to a chattel mortgage but these mortgages are rare and only apply to chattels which have a form of specialist registration, for example, ships vehicles or aircraft.

Formalities/Registration requirements

Generally, security over chattels is created in writing and executed as a deed.

If the security is granted by a UK company or Limited Liability Partnership it must be registered at Companies House within 21 days of the security being created. If this procedure is not followed, the security will be void on insolvency and void against other creditors. Some chattels require specialist registration.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

- examples include intellectual property rights such as trademarks and patents, shares, and bonds,

What are common forms of security granted over intangible movable property?

- *Mortgage*
- *Charge*
- *Pledge*

Formalities/Registration requirements

A mortgage of insurance policies, shares and stocks generally takes the form of an assignment with a proviso for reassignment

Charges over intangible movable property are often affected by assignment which should be in writing

A pledge takes the form of an actual or constructive delivery

Some intangible movable property such as trademarks require specialist registration.

SECTION 2 - GUARANTEES:

Are guarantees used in your jurisdiction? Yes

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees** Yes
- **Personal Guarantees** Yes
- **Bank Guarantees** Yes
- **Letters of Comfort** Yes
- **Others**

Formalities/Requirements:

For a guarantee to be enforceable, either its main terms must be in writing and signed by or on behalf of the guarantor, or the guarantor (or its agent) must sign a note of those terms.

The beneficiary of the guarantee must also provide consideration for the guarantor's promise, unless the guarantor executes the guarantee as a deed. The consideration need not be described in writing.

Letters of Comfort

Letters of comfort are often provided where a borrower will not provide a guarantee. Often such letters are merely a statement of present intent and are not intended to be binding. Depending on wording some letters of comfort can be enforceable. It is necessary to distinguish a non enforceable statement of current intent which can of course change from an enforceable promise

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt No
If yes, what are the formalities?

Bill of Exchange Yes
If yes, what are the formalities?

These are also known as a “Draft”. A bill of exchange is an unconditional offer in writing addressed by one person (the drawer) to another (the drawee), signed by the drawer, requiring the drawee to pay on demand, or at a fixed or determinable future time, a sum certain in money to, or to the order of, a specified person (the payee), or to bearer

Cheque Yes

Must be in writing, addressed to the bank, signed by the drawer, requiring the bank to pay a certain sum of money to the person named on the cheque. This is not technically a form of security in the narrow sense but the English courts look on cheques as cash. As a result there is generally no defence to a claim for non payment of a cheque (dishonour) except in very few limited circumstances

Letters of Credit Yes
If yes, what are the formalities?

A letter of credit is the most frequent method of payment in international trade but is also used in domestic trade transactions. A letter of credit is an authority by one person to another to draw cheques or bills of exchange upon him with an undertaking to honour the drafts on presentation. Usually takes the form of a document from a bank guaranteeing that a seller will receive payment in full as long as certain delivery conditions have been met. In the event that the buyer is unable to make payment on the purchase, the bank will cover the outstanding amount.

Matthew Halton

Stephensons Solicitors LLP
10th Floor, 1 Lyric Square, London W6 0NB, England
mhn@stephensons.co.uk

FINLAND

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

The act on the land registry system states that the data of all real estate is registered in the land registry. Therefore, real estate is what is registered in that public authentic register ("Lainhuuto- ja kiinnitysrekisteri or kiinteistökirja") as individual real estate.

The categories of real estate listed in the law are as follows:

private real estate:

- estates: real estate located outside city planning zones;*
- plots of land: real estate located within city planning zones.*

public real estate:

- 3) public areas;*
- 4) State-owned forest lands;*
- 5) conservation areas (conservation areas) founded on a State-owned area in accordance with the Nature Conservation Act (1096/1996) or the legislation in force prior to it;*
- 6) areas partitioned based on redemption (redemption units);*
- 7) areas partitioned for public needs;*
- 8) separate reliction areas; and*
- 9) public water areas.*

In addition, all movable property that the owner has attached to the premises to remain there indefinitely are considered to be part of the property.

Homeownership is organised in Finland in a peculiar way. Finns typically live in houses owned by companies that they own themselves. Nearly all multi-story residential buildings and many row or semi-detached houses are company-owned, most often through a special limited liability company called the 'housing company' (asunto-osakeyhtiö). Thus, the company owns one or more

buildings where over half of the total floor area is specified as residential apartments in the shareholders' possession. The homeowners have title to the shares of these housing companies, which confer the right to the possession of a specific apartment. Thus, apartments are not real estates in Finland.

What are the most common forms of security granted over real estate and give the names in your language?

- Mortgage (in Finnish: "kiinteistökiinnitys")*
- Sale with retention of title (in Finnish: "omistuksenpidätysehto")*

Formalities/Registration requirements:

In case of any and all security over real estate, it is only effective against good faith third persons in case it is registered into the land registry. Without registration, it is only a bilateral contractual obligation, and cannot be enforced on the real estate. It is effective against good faith third persons from the date of submission to the land registry indicated by the side note. Sale with retention of ownership is valid only for five years from the date of the sale agreement.

The Register Authority for the land registry is National Land Survey of Finland.

The application for registration of securities shall indicate:

- the real estate or other registrable object to which the application pertains;*
- the claim or request of the applicant and, where necessary, a justification for the same;*
- the name and domicile of the applicant, a personal identity number, trade register number or other corresponding identifier; and*
- the telephone number of the applicant, his legal representative or attorney, as well as the address for service.*

The application shall be in writing and signed by the applicant or the person drawing up the application.

Since buildings are not real estates they cannot be mortgaged separately, however, the right-holder may mortgage the lease that confers her possession of a building. Also, as stated above, apartments are not real estates in Finland, but shares of a housing company can be pledged and registered in a shares and shareholders register of a housing company (see also pledge over tangible property).

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

All “things” that are not a real estate are tangible movable property. In addition, the rules applicable to “things” also apply to money and securities (commercial papers), and other resources that can be utilized as capital goods.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- Pledge over specific tangible movable property (in Finnish: “vakuus”)*
- Pawn (in Finnish: “pantti”)*
- Retention of Title (in Finnish: “omistuksenpidätysehto”) is possible in case of sale of tangible movable property. The retention of title has to be agreed upon prior to the transfer of the tangible movable property.*
- Enterprise mortgage (“yrittyskinnitys”)*

Formalities/Registration requirements

The security shall usually be engaged in an instrument in writing to be valid.

In case of certain tangible movable properties that have a national register (mostly different vehicles, such as airplanes, ships etc) the pledge is only effective against good faith third parties if the pledge is registered into the appropriate register.

Enterprise mortgage is a form of pledge over company property, where the pledge is over all tangible and intangible movable property that the company owns. The mortgage has to be applied for and registered at the Trade Register with a separate form. Note that shares and other commercial papers can be pawned despite the enterprise mortgage, and in such case the pawn is prioritized over the enterprise mortgage.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

There is not an explicit definition for the Intangible Movable Property in Finnish law. In the same way that all “things” that is not defined as real estate is considered as tangible movable property, all property that is not represented in a tangible form is considered intangible movable property. For example, trademarks, patents, copyright, shares and other commercial papers are considered as intangible movable property.

What are common forms of security granted over intangible movable property?

- Pledge over specific intangible movable property (in Finnish: “vakuus”)
- Pawn (in Finnish: “pantti”)
- Retention of Title (in Finnish: “omistuksenpidätysehto”) is possible in case of sale of intangible movable property. The retention of title has to be agreed upon prior to the transfer of the intangible movable property.
- Enterprise mortgage (“yrittäskinnitys”)

Formalities/Registration requirements

The security shall usually be engaged in an instrument in writing to be valid.

In case of certain intangible movable properties that have a national register (trademarks, patents etc) the pledge is only effective against good faith third parties if the pledge is registered into the appropriate register.

Enterprise mortgage is a form of pledge over a company property, where the pledge is over all tangible and intangible movable property that the company owns. The mortgage has to be applied for and registered at the Trade Register with a separate form. Note that shares and other commercial papers can be pawned despite the enterprise mortgage, and in such case the pawn is prioritized over the enterprise mortgage.

Securities over shares of a company are registered in a shares and shareholders register, held by the board of the directors of a company.

SECTION 2 - GUARANTEES: “Takaus”

Are guarantees used in your jurisdiction?

Yes ☒ No ☐

What types of guarantees are used in your jurisdiction?

- | | |
|------------------------------|---|
| • First/On Demand Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Personal Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Bank Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Letters of Comfort | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Others | |

Formalities/Requirements:

The guarantees can be given either for a specific debt, or as a general guarantee on behalf for all the debts of the debtor. The guarantee can also be given as a pledge to tangible movable property.

On Demand Guarantees are rarely used in domestic transactions and fall outside the scope of the law on guarantees. Letters of Comfort are also not commonly used and there are no legislation in place, and as a general rule they have nonbinding status.

Banks usually demand the guarantee to be made in writing, but there is no provision in the law that requires this. There are no other formal requirements for the guarantee, i.e those guarantees need not to be registered.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes ☒ No ☐

If yes, what are the formalities?

Statements of debt are used in Finland, but they are not notarized. They are valid verbally, but it is customary to agree on them in writing. There are no registration requirements.

Bill of Exchange

Yes ☒ No ☐

If yes, what are the formalities?

Bills of Exchange are very rarely used in Finland. The Bill of Exchange should contain:

- 1. The term “Bill of Exchange” inserted in the body of the instrument and expressed in the language employed in drawing up the instrument (in Finnish “vekseli”);*
- 2. An unconditional order to pay a determinate sum of money;*
- 3. The name of the person who is to pay (drawee);*
- 4. A statement of the time of payment;*
- 5. A statement of the place where payment is to be made;*
- 6. The name of the person to whom or to whose order payment is to be made;*
- 7. A statement of the date and of the place where the bill is issued;*
- 8. The signature of the person who issues the bill (drawer).*

An instrument in which any of the requirements mentioned above is not met is invalid as a Bill of Exchange or Promissory Note, except in case:

- 1. if the time of payment is not specified, it is deemed to be payable at sight.*
- 2. in default of special mention, the place specified beside the name of the person obliged to pay is deemed to be the place of payment, and at the same time the place of the domicile of the person obliged to pay.*
- 3. if it does not mention the place of its issue, it is deemed to have been drawn in the place mentioned beside the name of the issuer.*

ChequeYes ☒ No ☐*Cheques are very rarely used in Finland.***Letters of Credit**Yes ☒ No ☐**If yes, what are the formalities?***Letters of Credit are mainly used in international transactions. The formalities are specified by the International Chamber of Commerce.***Kalle Pedak**

Hedman Partners

Tehtaankatu 10, FI-00140 Helsinki, Finland

kalle.pedak@hedman-attorneys.com

FRANCE

SECTION 1 - FORMS OF SECURITY OVER ASSETS (“SÛRETES REELLES”):

Real Estate

What is considered real estate in your jurisdiction?

As per article 517 of the civil code, things are immovable (“immeubles”), either by their nature or by their destination, or by the object to which they are applied.

Land and buildings are immovable by their nature.

Animals and things that the owner of a tenement placed thereon for the use and working of the tenement are immovable by destination (e.g. barrels in a brewery, provided they are not invoiced to customers). In addition, all movable property that the owner has attached to the premises to remain there indefinitely are also immovable by destination.

The following are immovable by the object to which they are applied: the usufruct of immovable property; easements or land services; actions for the purpose of recovering the ownership of a real estate. For example, a license for running a mineral spring is immovable by the object to which it is applied.

What are the most common forms of security granted over real estate and give the names in your language?

(1) Special privilege (“privilège spécial”) set by the law (e.g. in favour of the seller over the real estate sold, for payment of the purchase price), (2) mortgage (“hypothèque”), which may be either legal (“hypothèque légale”) (e.g. in favour of a judgment creditor), or contractual (“hypothèque conventionnelle”) or judicial (“hypothèque judiciaire conservatoire”), (3) pledge of real estate (“gage immobilier”), which, unlike the above “privilège spécial” and “hypothèque”, entails the dispossession of the owner, (4) retention right (“droit de rétention”) (see below in the section on tangible movable property for its legal regime), and (5) “fiducie sûreté”, whereby the ownership of a real estate may be assigned as a security of an obligation by virtue of a trust contract.

Formalities/Registration requirements:

The above securities over a real estate (save the “droit de rétention”) must be registered (and renewed in due course) by filing appropriate documents at the local land registry (“service de publicité foncière”) where the real estate is situated, failing which the creditor will not be in a position to oppose its security to third parties. Registration entails rather expensive costs. In addition, the “hypothèque conventionnelle” and the “gage immobilier” must be drafted in a deed established by a French notary (“notaire”), for being legally valid, otherwise they are null and void.

Besides, the trust contract regarding a “fiducie-sûreté” must be registered with the tax authorities as well as on a national registry.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

As per article 527 of the civil code, property is movable (“meuble”) by its nature or by prescription of law. Hence, under French law, the list of tangible movable property may be very long, including but not limited to vehicles, agricultural stock, trading stock, goods, machinery, vessels such as airplanes and ships, etc. It can be confusing, as for example a business (“fonds de commerce”) is neither a real estate nor a tangible movable property, but an intangible movable property (see below).

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

(1) General privilege (“*privilège général*”) set by the law (e.g. in favour of tax authorities and social security over all movable property),

(2) Special privilege (“*privilège spécial*”) set by the law (e.g. in favour of the carrier over the transported goods, for payment of the transportation price),

(3) Pledge (“*gage*”):

A pledge (“*gage*”), unlike the above general and special privileges, is established under a contract and the owner may be dispossessed or not of its movable property. The pledge with dispossession (“*gage avec dépossession*”) gives the pledgee a retention right (“*droit de rétention*”) over the movable property as long as the claim is not satisfied, as well as a preferential right (“*droit de préférence*”) (as per a legal ranking of creditors) in case of sale of the movable, and the right that the property will remain with him in payment, either judicially or contractually (“*pacte comissoire*”). Pledge with dispossession “*gage avec dépossession*” theoretically benefits from the right to invoke the pledge in whatever hands the movable may pass (“*droit de suite*”), though the third party holding the movable may rebut such right if it is a bona fide holder. Pledge without dispossession (“*gage sans dépossession*”), unlike “*gage avec dépossession*”, must be registered with the relevant registry kept at the trade registry, failing which it cannot be opposed to third parties. The pledgee in a “*gage sans dépossession*” scenario benefits from the same right as in case of “*gage avec dépossession*”, save that its “*droit de suite*” is much stronger, on account of the registration. There also exists in the commercial code a specific legal regime applicable to pledge over trading stock (“*gage des stocks*”), the main features of which are that of a “*gage sans dépossession*”.

(4) Retention of title (“*réserve de propriété*”) also exists under French law and may apply, in a bankruptcy scenario of the debtor, provided that the parties agreed to it in writing no later than at the time of delivery of the movable property, that it still exists in kind at the time of the judgment opening bankruptcy proceedings and that in case of incorporation into another asset, these assets can be separated without suffering any damage. Retention of title may also apply over the purchase price not yet paid by the third party purchaser to the debtor.

(5) “*Droit de rétention*” is also a specific security (not necessarily connected to a “*gage*” or an “*hypothèque*”) granted to the creditor who is effectively holding in good faith the movable or immovable property, and allows it to retain the asset as long as the claim is not satisfied, provided there exists a link between the asset and the claim. Unlike “*gage*” or “*hypothèque*”, “*droit de rétention*” does not entail any “*droit de préférence*” if creditor moves to the court to have the asset sold or transferred to it.

(6) Besides, as for immovable property, the ownership of movable property may be assigned as a security of an obligation by virtue of a trust contract (“fiducie-sûreté”).

(7) “Gage-espèces”: monies placed in escrow account as security.

Formalities/Registration requirements

Most of the privileges are not registered as they are established by operation of law.

“Gage sans dépossession” and “droit de rétention” are not registered.

“Gage avec dépossession” and “gage des stocks” are registered at the trade registry where the pledgor is situated. Besides, advertising for “Gage avec dépossession” is centralized in a national registry.

In addition, the trust contract regarding a “fiducie-sûreté” must be registered with the tax authorities as well as on a national registry.

There also exists other registries where securities over airplanes, ships, motion pictures, cars, etc. must be registered.

Retention of title may be advertised at the trade registry where debtor is located, but this is not compulsory. It however gives the creditor a stronger right when it is duly advertised at the trade registry.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intangible movable property (“biens meubles incorporels”) can be found in various French statutes. One may mention in this respect: business (“fonds de commerce”), intellectual property rights such as trademarks and patents, shares, receivables, etc.

What are common forms of security granted over intangible movable property?

Security granted over intangible movable property are termed under French law as “nantissement”, as per article 2355 of the civil code. Absent specific legal regime, rules applicable to security over intangible movable property are those applicable to “gage” (see above), save as regards “nantissement de créances”, which has a specific regime (see below). Most common form of securities over intangible movable property are the following (this is obviously not an exhaustive list, and we will only address a selection of such securities):

(1) Pledge of business (“nantissement de fonds de commerce”)

A business encompasses both tangible and intangible movable property, and in particular goods and equipment, customers’ list, lease right, trade name, industrial property rights, etc.

However, real estate is not part of a business.

(2) Pledge of industrial property rights (“nantissement de droit de propriété industrielle”) and of software programs (« nantissement du droit d’exploitation de logiciel »).

This applies, to trademarks, models and designs, patents, and exploitation rights over software programs.

(3) Pledge of receivables/claims (“nantissement de créances”).

The applicable legal regime is set out under articles 2355 et seq. of the civil code (and articles L. 521-1 of the commercial code). It applies to existing and future claims, but also to a credit balance of a bank account. Special rules are applicable in favour of banks (“nantissement de créances professionnelles”);

(3) Pledge of shares and financial instruments (“nantissement de parts sociales” and “nantissement de compte-titres”).

Formalities/Registration requirements

The above securities over intangible movable property are not registered in a public registry, save pledge of business, pledge of industrial property rights and software programs, “nantissement de parts sociales”. Different formalities (form of the deed, notifications, etc.) are applicable depending on the type of security.

SECTION 2 – GUARANTEES (“SÛRETES PERSONNELLES”):

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

• **First/On Demand Guarantees**

Yes [X] No []

• **Personal Guarantees**

Yes [X] No []

• **Bank Guarantees**

Yes [X] No []

• **Letters of Comfort**

Yes [X] No []

• **Others:**

- “Sûreté negative” (negative covenant). For example, a covenant undertaken by debtor not to sell or pledge its assets.
- “Délégation” whereby a debtor gives his creditor another debtor who binds himself to the creditor.
- “Promesse de porte-fort” whereby the promisor promises to the promisee (creditor) that the third party (debtor) will perform an act.
- Buy-back agreement: the lessor of goods/building leased to a lessee requests the supplier of the goods/building, in a buy-back agreement, to buy them back in case where the lessee would not fulfil its obligations vis-à-vis the lessor under the financial lease.

Formalities/Requirements:

It would be too long, for the purpose of this questionnaire to go in all details of the legal regime applicable to all those guarantees, especially personal guarantees. Nevertheless, it is worth noting that those guarantees need not to be registered or advertised for being valid. However, there are strict rules applicable to personal guarantees (“cautionnement”) regarding formalities, save, in particular, when drafted in a notarized deed (“acte notarié”). In particular, when the guarantor is not a trader, the amount must be handwritten by the guarantor, the guarantee must be signed by the guarantor (this rule also applies to First/On Demand Guarantees). Special protective rules and requirements are applicable if the guarantor is an individual and the guarantee is issued in favour of a professional (specific handwritten words must be stated). Specific rules are also applicable to guarantees given by some forms of limited liability companies (“société anonyme”) in terms of authorization given by the board of directors to its CEO for signing the guarantee.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction?

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

Deed must be drafted by the notary and signed before him.

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

No specific formality, but obviously the bill of exchange must comply with legal rules.

Cheque

Yes [] No []

Cheques may be remitted by debtor to creditor as a security, in particular when debt is to be repaid on a monthly basis over a certain period of time.

Letters of Credit

Yes [] No []

If yes, what are the formalities?

If the letter of credit is governed by the ICC Uniform Customs and Practice for Documentary Credits (UCP 600), it must comply with such rules.

Paul de Drée

de Dree Avocats

19, rue du Vexin, 95810 Grisy-les-Plâtres, France

pdedree@dedree-avocats.fr

GERMANY

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

- *Land*
- *Land with houses*
- *Condominium (Eigentumswohnung)*

What are the most common forms of security granted over real estate and give the names in your language?

- *Mortgage (Hypothek)*
- *Land charge (Grundschuld)*

Formalities/Registration requirements:

- *For mortgage (Hypothek): agreement between creditor and debtor that a mortgage shall be given which requires no special form; then registration of the mortgage in the land register; usually the land register issues a mortgage certificate (Hypothekenbrief) but the parties can agree that a certificate shall not be issued. A mortgage requires an existing claim to be secured with the mortgage*
- *For land charge (Grundschuld): the formalities are the same as for the mortgage. The difference is that the land charge does not require an existing claim which shall be secured with the land charge.*

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

All kinds of movable assets, eg vehicles (car, truck etc.), all kind of goods and stocks, ships, airplanes, machinery, tools etc.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- *Pledge (Pfandrecht)*
- *Transfer by way of security (Sicherungsübereignung)*
- *Retention of Title (Eigentumsvorbehalt) (simple and extended)*
- *Ship mortgage (Schiffshypothek)*

Formalities/Registration requirements

- *Pledge: agreement between creditor and debtor that a certain movable asset shall be pledged. No special form required. Further requirement is that the creditor gets the possession of the pledged asset;*
- *Transfer by way of security: agreement between creditor and debtor that the title in a certain movable asset is transferred for security purposes to the creditor. No special form required. The possession of the movable asset remains with the debtor.*
- *Retention of Title: agreement between creditor and debtor. No special form required.*
- *Ship mortgage: a ship mortgage has to be registered in the ship register*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intangible assets are: account receivables (Forderungen), patents (Patente), trademarks (Markenrecht), copy right (Urheberrecht), licenses (Lizenzen), goodwill (Geschäftswert), right of use (Nutzungsrecht), internet domains, software, shares,

What are common forms of security granted over intangible movable property?

- *Assignment by way of security (Sicherungsabtretung)*
- *Pledge (Pfandrecht), but only if the respective right can be transferred*

Formalities/Registration requirements

The assignment and the pledge has to be agreed between debtor and creditor. No registration is required.

SECTION 2 – GUARANTEES (Bürgschaft, Garantie):

Are guarantees used in your jurisdiction?

Yes [x] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**
- **Bank Guarantees**
- **Letters of Comfort**
- **Others**

Yes [x] No []

Yes [x] No []

Yes [x] No []

Yes [] No [x]

Formalities/Requirements:

The guarantee declaration has to be given in writing. If the debtor is not a consumer and if the guarantee is a commercial transaction for the debtor no written form is required.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [x] No []

If yes, what are the formalities?

The declaration of the debtor that he owes a certain amount to a creditor and that he submits to immediate enforcement action in case he does not repay the debt has to be notarized.

Bill of Exchange

Yes [x] No []

If yes, what are the formalities?

Issuing a bill of exchange; no further special formalities

Cheque

Yes [x] No []

Issuing a cheque; no further special formalities

Letters of Credit

Yes [x] No []

If yes, what are the formalities?

Usually the banks handle the letter of credit according to the Uniform Customs and Practice for Documentary Credits - UCP 600 of the ICC in Paris.

Thomas Voller

Voller Rechtsanwälte

Main Airport Center (MAC),

Unterschweinstiege 2-14, 60549 Frankfurt am Main, Germany

DrVoller@vollerlaw.com

GREECE

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Property comprised of land and the buildings on it

What are the most common forms of security granted over real estate and give the names in your language?

Mortgage (υποθήκη), statutory mortgage (προσημείωση υποθήκης)

Formalities/Registration requirements:

A title granting the right to obtain a mortgage/statutory mortgage, registration of the title in the Land Registration Office.(title can be obtained by the law, a court judgment or by bilateral agreement)

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Things that are not considered as real estate are tangible movable property. The term “thing” is defined as a thing of tangible nature, which is capable of appropriation.

Money, securities (commercial papers), natural resources and animals, that can be utilized as capital goods are also included in the term. There are exceptions concerning public goods.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Pledge (ενέχυρο) in three different ways, as described below.

Retention of title (παρακράτηση κυριότητας)

Formalities/Registration requirements

1. The most common form of pledge is granted by agreement between the parties. In such cases what is required is: a) a bilateral agreement signed before a notary public or before competent authorities certifying the date of the agreement and b) physical delivery to the beneficiary of the pledge. Special registry books are kept in the Registry Office for pledges over ships and airplanes.

2. When the pledge is granted by the law (e.g. the lesser has according to the law pledge over the objects of the lessee in case the lessee does not pay the rent on time). It is valid ex officio (no formalities required).

3. Quasi lien (πλασματικό ενέχυρο): When the beneficiary does not take physical delivery over the objects of the pledge and it is agreed that the object will remain at the creditor's disposal. This kind of pledge requires bilateral agreement written at least in a private document and registration in the registry books.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

As intangible movable property are considered: rights (which have value and can be transferred), intellectual property rights (e.g. copyright), industrial property rights (e.g. trademarks, geographical indications, patents, industrial designs, domain names and trade secrets), shares, bonds, (when they are dematerialised) and claims.

What are common forms of security granted over intangible movable property?

Pledge on rights (ενέχυρο σε δικαιώματα)

Pledge on claims (ενέχυρο σε απαιτήσεις)

Assignment of claims (εκχώρηση απαιτήσεων)

Formalities/Registration requirements

1) *Pledge on rights: bilateral agreement signed in presence of a notary public or in presence of a competent authority, certifying the date of the agreement. Additionally in some cases the pledge has to be registered in the registry books of the authorities, who keep data of the above rights (e.g. registry books of the Industrial Property Organization, of the Hellenic Copyright Organization, of the Trademarks' Records and of the Dematerialised System of the Stock Market).*

2) *Pledge on claims: bilateral agreement signed in presence of a notary public or in presence of a competent authority, certifying the date of the agreement and notification of the pledge to the debtor of the claim (special laws about business claims, financial instruments and securities apply exclusively in such cases).*

3) *Assignment of claims: bilateral agreement and notification of the assignment to the debtor.*

SECTION 2 - GUARANTEES:[Εγγυήσεις]

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees** (εγγυητική επιστολή σε πρώτη ζήτηση) Yes [X] No []
- **Personal Guarantees** (προσωπική εγγύηση) Yes [X] No []
- **Bank Guarantees** (τραπεζική εγγύηση- εγγυητική επιστολή) Yes [X] No []
- **Letters of Comfort** (ενέγγυα πίστωση) Yes [X] No []
- **Others:** εγγυοδοσία: *deposition of an amount to secure fulfillment of contract*

Formalities/Requirements:

Written bilateral agreement (at least private written agreement)

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt (συμβολαιογραφική αναγνώριση χρέους) Yes [X] No []

If yes, what are the formalities?

Notarial deed

Bill of Exchange (συναλλαγματική) Yes [X] No []

If yes, what are the formalities?

The bill of exchange contains 1) the term “Bill of Exchange”, 2) the order to pay a determinate sum of money, 3) the name of the person who is to pay, 4) the time of the payment 5) the place where the payment is to be made 6) the name of the person to whom payment is to be made, 7) a statement of the date and place where the bill is issued, 8) the signatures of two persons a) of the person who issues the bill of exchange and receives the payment (creditor) and b) of the person who has to pay (debtor).

Cheque (επιταγή) Yes [X] No []

Letters of Credit (εγγυητική επιστολή) Yes [X] No []

If yes, what are the formalities?

(See above in the beginning of section 2)

Antonios N. Fifis

Fifis Lawyers

Odos Dimokritou 24, 10673 Athens, Greece

afifis@fifis.gr

HUNGARY

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

The act on the land registry system states that the data of all real estate is registered in the land registry. Therefore real estate is what is registered in that public authentic register as individual real estate.

The main categories are an area of land with a unique land registry number and any facility (building) built on such land, which is not owned by the owner of the land. The main rule is that the building is not a separate lot number and is owned by the land owner, deviation is possible under some conditions.

What are the most common forms of security granted over real estate and give the names in your language?

- Mortgage (in Hungarian: "jelzálogjog")
- Sale with Retention of Title (in Hungarian: "tulajdonjog fenntartással történő eladás"); this is only possible in case of sale and purchase
- Suspension of sale and purchase registration procedure (in Hungarian: "tulajdonjog átruházás függőben tartása") this is only possible in case of sale and purchase; while the Retention of Title is a registered fact on the property sheet, the suspension is a side note, therefore any and all petitions following it may only be decided after this is resolved; other than the Retention of Title, this also stops any encumbrance or enforcement on the real estate from being registered even if requested by e.g. the tax authority, and in case of successful transfer of title, if the new owner did not consent to the encumbrance or enforcement, then all later submitted such petitions are rejected
- Prohibition of transfer of title and encumbrance (in Hungarian: "Elidegenítési és terhelési tilalom"; this is only a secondary security, because it can only be established to protect another right e.g. mortgage from being devaluated; it is also possible to only limit the transfer of title)

Formalities/Registration requirements:

In case of any and all security over real estate, it is only effective against good faith third persons in case it is registered into the land registry. Without registration, it is only a bilateral contractual obligation, and cannot be enforced on the real estate. It is effective against good faith third persons from the date of submission to the land registry indicated by the side note.

The registration can only be requested based on a document countersigned by an attorney or notary. In case of documents signed outside Hungary, it also needs additional authentication by apostille or consularization (exceptions apply due to bilateral treaties with some countries, e.g. Austria).

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

All “things” that are not a real estate are tangible movable property. The term “thing” is defined as a thing of tangible nature, which is capable of appropriation.

In addition to the above, the rules applicable to “things” also apply to money and securities (commercial papers), and natural resources that can be utilized as capital goods, furthermore - with the natural exceptions detailed by special laws - to animals.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- Pledge over specific tangible movable property (in Hungarian: “ingó zálogjog”)
- Pawn (in Hungarian: “kézizálog”)
- Pledge over all prevailing assets owned by a person (in Hungarian: “vagyont terhelő zálogjog”)
- Attorney escrow, notarial escrow, or court escrow (in Hungarian: “ügyvédi letét, közjegyzői letét, vagy bírói letét”)
- Retention of Title (in Hungarian: “tulajdonjog fenntartással történő eladás”) is possible in case of sale of tangible movable property, however, because most tangible movable property can be transferred without registration of the owner in a public authentic register like the land registry, it is not a very effective security for most tangible movable property

Formalities/Registration requirements

The security shall be engaged in an instrument in writing to be valid. It is unusual to not engage it to at least a private document with full probative force e.g. with two witnesses.

Currently no publicly authentic register of pledges to mandatory register to pledge since the entering force the new Civil Code (March 15, 2014).

In case of a pledge on business quotas of a Hungarian Ltd (“Kft.”), the registration is required to the company register by the court of registration in a standard company change procedure.

In case of a pledge or any third party right or limitation affecting the shares of companies limited by shares (private company limited by shares - “Zrt.”, or public company limited by shares - “Nyrt.”), any encumbrance or limitation is only valid against a good faith third party acquiring the shares if it is written on the share itself (in case of dematerialized shares, registered with the data of the shares publicly visibly).

In case of registration to any public authentic register in Hungary, the minimum requirement is a private document with full probative force. Because witnesses are not enough for full probative force if documents are signed outside Hungary, in that case they need to be notarized and additional authentication by apostille or consularization is also required (exceptions apply due to bilateral treaties with some countries, e.g. Austria).

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Please note that there is no defined term for „intangible movable property” under Hungarian law. Anything not included in the definition of real estate or tangible movable property above (which includes some intangible parts by fiction such as natural resources that can be utilized as capital goods) is not a movable property, only a right or obligation.

The term “assets” in the civil code includes all real estate, tangible movable property and rights and obligations.

Therefore intellectual property is only a right and part of the term asset, but not movable property.

What are common forms of security granted over intangible movable property?

Pledge over rights or claims (in Hungarian: “jelzálogjog jogokon vagy követeléseken”)

Limited security lien (in Hungarian “Keretbiztosítéki jelzálogjog”): Lien can be established to secure one or several, outstanding or future, unconditional or conditional pecuniary claims in determined or determinable amount.

Seceded lien (in Hungarian: “Különvált zálogjog”): 1) The mortgagee can transfer the lien - by contract to secure his debt - even without the secured claim () to the obligee of a claim made against him. On the basis of the seceded lien, the acquirer of the lien will be entitled to the lienor’s rights.

Formalities/Registration requirements

The security shall be engaged in an instrument in writing to be valid. It is unusual to not engage it to at least a private document with full probative force e.g. with two witnesses.

Currently no publicly authentic register of pledges to mandatory register to pledge since the entering force the new Civil Code (March 15, 2014).

SECTION 2 - GUARANTEES: in Hungarian “kezeség”

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**

Yes [X] No []

- **Personal Guarantees**

Yes [X] No []

- **Bank Guarantees (in Hungarian: “bankgarancia”)**

Yes [X] No []

- **Letters of Comfort**

Yes [] No [X]

- **Others:**

- Guarantee Contract (in Hungarian “garancia szerződés”), which is similar to a bank guarantee, but is not provided by a bank. The obligation of the guarantor set out in the guarantee contract is independent of the obligation for which it has promised to answer; the guarantor may not enforce the same objections that can be made by the debtor against the creditor.

- *Deficiency Guarantee (in Hungarian: “kártalanító kezesség”), in which case the guarantee expressly covers that part of the debt that cannot be recovered from the debtor, and the creditor shall only be entitled to demand from the guarantor payment for the guaranteed claim, if creditor filed for enforcement on the debtor’s assets and the enforcement procedure has been unsuccessful. This is of course not beneficial to the creditor.*

Formalities/Requirements:

The guarantee shall be engaged in an instrument in writing to be valid. It is unusual to not engage it to at least a private document with full probative force e.g. with two witnesses.

Banks usually require notarization to accept a guarantee for a bigger amount, and in case of documents signed outside Hungary, also additional authentication by apostille or consularization (exceptions apply due to bilateral treaties with some countries, e.g. Austria).

In case a consumer signs a guarantee contract, the statement of guarantee shall be considered a first demand guarantee, not as a guarantee contract.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt (in Hungarian: “tartozáselismerő nyilatkozat”) Yes ☒ No ☐

If yes, what are the formalities?

Statement of debt is valid verbally or in writing. Of course due to later evidence, it is unusual to not engage it to at least a private document with full probative force e.g. with two witnesses. The acknowledgement of the debt by debtor only transfers the burden of proof (that the debt does not exist or that the amount is smaller) to debtor, it has no other material legal effect.

Bill of Exchange (in Hungarian: “idegen váltó”) Yes ☒ No ☐

If yes, what are the formalities?

The formal requirement shall be met at the time the Bill of Exchange is mature, not necessarily at the time of issuing it, therefore they may be repaid before the maturity. The requirements are in accordance with the Convention of Geneva dated 7 June 1930, publicized by the decree 1/1965 (I.24.) of the minister of justice of Hungary, which only had one minor supplement in 1985.

It is rare to use a Bill of Exchange as security in Hungary. In case it is issued so that the obligor is the issuer, it is called a Promissory Note (in Hungarian: “saját váltó”). Due to the strict formal requirements, it is easy to issue an invalid Bill of Exchange.

The Bill of Exchange contains:

- 1. The term “Bill of Exchange” inserted in the body of the instrument and expressed in the language employed in drawing up the instrument (please note that in the Hungarian law, the writing of the general name “váltó” is sufficient, which can be either a Bill of Exchange or a Promissory Note);*
- 2. An unconditional order to pay a determinate sum of money;*
- 3. The name of the person who is to pay (drawee);*
- 4. A statement of the time of payment;*
- 5. A statement of the place where payment is to be made;*

6. The name of the person to whom or to whose order payment is to be made;
7. A statement of the date and of the place where the bill is issued;
8. The signature of the person who issues the bill (drawer).

The Promissory Note contains:

1. The term "Promissory Note" inserted in the body of the instrument and expressed in the language employed in drawing up the instrument (please note that in the Hungarian law, the writing of the general name "váltó" is sufficient, which can be either a Bill of Exchange or a Promissory Note);
2. An unconditional promise to pay a determinate sum of money;
3. A statement of the time of payment;
4. A statement of the place where payment is to be made;
5. The name of the person to whom or to whose order payment is to be made;
6. A statement of the date and of the place where the promissory note is issued;
7. The signature of the person who issues the instrument (maker).

When a Bill of Exchange or Promissory Note is payable at sight, or at a fixed period after sight, the drawer may stipulate that the sum payable shall bear interest. In any other case, this stipulation is null and void.

An instrument in which any of the requirements mentioned above is not met is invalid as a Bill of Exchange or Promissory Note, except in case:

1. if the time of payment is not specified, it is deemed to be payable at sight.
2. in default of special mention, the place specified beside the name of the person obliged to pay is deemed to be the place of payment, and at the same time the place of the domicile of the person obliged to pay.
3. if it does not mention the place of its issue, it is deemed to have been drawn in the place mentioned beside the name of the issuer.

Cheque (in Hungarian: "csekk")

Yes ☒ No ☐

It is possible to use a Cheque as security, but it is rare in Hungary, either as payment method or as a security.

Letters of Credit (in Hungarian: "akkreditív" or "okmányos meghitelezés")

Yes ☐ No ☒

If yes, what are the formalities?

Letters of Credit are mainly used by Hungarian companies as payment method, not frequently as a security. The formalities are specified by the International Chamber of Commerce.

Péter Nógrádi

Nógrádi Law Office

Montevideo st. 3/a (Szepvölgyi Office Park), 1037 Budapest, Hungary

nogradi.peter@nogradilaw.hu

ICELAND

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

A real estate (real property) is a defined land (plot), the organic and non-organic parts of the plot together with anything fixed or permanently attached to it and the natural resources that might be found on it. Apartments are also defined as real estates.

What are the most common forms of security granted over real estate and give the names in your language?

Security rights on immovable property are most commonly created by way of mortgage (non-possessory charge) (veð/veðréttur) or contractual pledge.

The security interest is created by a deed of mortgage (veðsamningur) issued by the mortgagor that addresses the relationship between the parties.

Formalities/Registration requirements:

To obtain protection against third parties under the Act on Register of Deeds No. 39/1978, the mortgage needs to be registered by the magistrate in the district of the real estate's location. These registers are open for public inspection and online access to the registers is available to retrieve information.

There are 24 district magistrates in Iceland for each specific jurisdiction. The district magistrates have collective obligations relating to registrations and hypothecations, among others.

If the relevant formalities are not complied with, the security interest is generally valid between the parties. However, it is not effective and creates no priority as against third parties with an interest in the property nor during bankruptcy proceedings.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

There is a negative definition: Everything that is not a real estate is considered movable property

Agricultural stock, goods, crop, plant and machinery, airplanes and ships etc.

Tangible moveable property is divided into two categories according to Icelandic law, depending on if they are registered in the Icelandic registry of motor vehicles (ökutækjaskrá) or not. The Registry of Motor Vehicles is open for public inspection and online access to the registers is available to retrieve information.

What are common forms of security granted over tangible movable property?**Please include Retention of Title (if applicable – simple/extended)**

Security rights on movable property are most often created by way of mortgage (non-possessory charge) or by a possessory charge. The difference between possessory and non-possessory charges is defined in the Act on Contractual Mortgage No. 75/1997.

Assets available in a physical form, including chattels and certificated negotiable securities, are eligible for possessory charges. The assets must be effectively removed from the control of the charger (Act on Contractual Mortgage No. 75/1997).

Assets eligible for non-possessory charges are assets available in physical as well as dematerialised form, including for example chattels, receivables and dematerialised securities. A right similar to a security right can be created by retention of title. Retention of title does not require any public registration, with the exception of retention of title to registered motor vehicles. It has to be agreed upon prior to the transfer of the tangible moveable property.

Formalities/Registration requirements

The Act on Register of Deeds requires either registration in a public register or provision of a notice to the affected third party. Rights to electronic securities must be registered in a central securities depository for the securities to enjoy legal protection with regard to enforcement procedures and disposal by contract (Article 16, Act on Electronic Registration of Rights of Title to Securities).

Tangible properties/assets, including chattels and certificated negotiable securities, are eligible for possessory charges (pant/handveðréttur). The assets must be effectively removed from the control of the charger (Act on Contractual Mortgage No. 75/1997).

Intangible movable property**What is considered intangible movable property in your jurisdiction?**

Intellectual property rights such as trademarks and patents, shares as defined in Art. 43 of the Act on Contractual Mortgage, together with Account Charge Receivables, Factoring, bonds, good-will, various types of claims towards a defined debtor.

What are common forms of security granted over intangible movable property?

Depends and they are stipulated in the relevant law in question - governing each type of asset (the intangible moveable property)

Formalities/Registration requirements

Depends and it is stipulated in the relevant law in question - governing each type of asset (the intangible moveable property)

SECTION 2 - GUARANTEES: “Ábyrgðir” (Icelandic)

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**

Yes [X] No []

Yes [X] No []

- **Bank Guarantees**

Yes [X] No []

Formalities/Requirements:

- *A guarantee must be in writing*
 - *The additional formalities required for validation can depend on the nature of the guarantee and on the party it should be valid towards or the party that is claiming the asset in question*
 - *It always needs to be signed by two witnesses stating their name, date and place of signature or a notary.*

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [] No [X]

If yes, what are the formalities?

Statements of debts are quite common in Iceland, but they are not notarized. They need to be in writing and have the signatures of two witness statements.

Bill of Exchange (“Víxill”)

Yes [X] No []

If yes, what are the formalities?

They used to be common but rarely used nowadays. There are very strict formalities, the Bill of Exchange (Víxill) shall contain:

1. *The term “Víxill” (Bill of Exchange) in the body of the document.*
2. *An unconditional promise to pay a determinate sum of money*
3. *The name of the person who is to pay*
4. *A statement of the time of payment and the place where payment can be insisted on*
5. *The name of the person to whom order payment is to be made*
6. *A statement of the date and the place where the bill is issued*
7. *The signature of the person who issues the Bill of Exchange*

Cheque

Yes [X] No []

Very rarely used in Iceland.

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

It must be in writing, and signed by two witnesses.

Katrín Smári Ólafsdóttir hdl.

FOCUS Law Firm
Kirkjutorg 6, 101 Reykjavík, Iceland
katrin@focuslog.is

IRELAND

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate is real property and includes land, buildings on it and anything fixed or permanently attached to the land. Real estate also includes the airspace above the land and the ground beneath it.

What are the most common forms of security granted over real estate and give the names in your language?

- *Legal mortgage*
- *Equitable mortgage*
- *Fixed charge*
- *Floating charge*

Formalities/Registration requirements:

In Ireland there is both registered and unregistered real estate/land/property. Security on registered land must be registered in the Land Registry. Security on unregistered land must be registered in the Registry of Deeds. If a Company has security on real estate it must be filed in the Companies Registration Office.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

Tangible moveable property refers to any type of property that can generally be moved and can include trading stock, agricultural stock, plant and machinery, vessels such as aircraft and ships.

What are common forms of security granted over tangible movable property?

- *Fixed charge*
- *Floating charge*
- *Retention of Title*
- *Pledge*
- *Bill of Sale*

Formalities/Registration requirements:

If a Company has security over tangible movable property it must be filed with the Companies Registration Office.

For a Retention of Title clause to be valid it must be incorporated into the contract document.

There are specific rules in relation to the registration requirements of security depending on the category of tangible moveable property.

Examples:

- *Agricultural stock – Statutory provisions apply and require the security to be registered within 28 days with each Circuit Court office of the county where the stock is located*
- *Ships – Registrar for Shipping*
- *Aircraft – Registration under the Cape Town Convention*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

- *Shares*
- *Financial Instruments eg. Securities, bonds*
- *Intellectual property eg. Patents, Trade Marks, Copyright*
- *Claims and receivables*

What are common forms of security granted over intangible movable property?

- *For financial Instruments and shares the most common forms of security include legal mortgage, equitable mortgage, fixed charge, floating charge.*
- *For Intellectual property the most common forms of security would be legal mortgage, equitable mortgage, fixed charge, floating charge in favour of the secured creditor.*
- *Claims and receivables would typically be subject to a fixed or a floating charge.*

Formalities/Registration requirements

- *Shares – Legal Mortgage - Share transfer forms are executed and share certificates are handed over. The share register of members must be amended to note the shares in the name of the mortgagee.*
- *Intellectual Property – Registration is required in the Companies Registration Office within 21 days of creation. Registration may also be required in the appropriate Trade Marks or Patents Office eg. Irish Patent or Trade Marks Office, The Patents Office, European Patents Organisation.*

SECTION 2 - GUARANTEES:

Are guarantees used in your jurisdiction?

Yes [x] No []

What types of guarantees are used in your jurisdiction?

- | | |
|---|------------------|
| • First/On Demand Guarantees | Yes [x] No [] |
| • Personal Guarantees | Yes [x] No [] |
| • Bank Guarantees | Yes [x] No [] |
| • Letters of Comfort – Not binding | Yes [] No [] |

Formalities/Requirements:

A guarantee must be in writing and signed by the Guarantor. It should be executed as a Deed.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes [x] No []

Bill of Exchange Yes [x] No []

Cheque Yes [x] No []

Letters of Credit Yes [x] No []

The above are used in Ireland but of themselves do not create security.

Matthew Wales

Wales and Co Solicitors

26 The Cubes Offices, Sandyford, Dublin 18, Ireland

mwales@walesco.ie

ITALY

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate (or immovable property) includes land, buildings and everything which is naturally or artificially incorporated into the land.

What are the most common forms of security granted over real estate and give the names in your language?

- Mortgage (*ipoteca*): it can be granted by the owner of the estate voluntarily (*ipoteca volontaria*), by a judgment (*ipoteca giudiziale*) or in some cases by the law (*ipoteca legale*). The mortgage must be registered in the Real Estate Registers (*Registri Immobiliari*).
- Special privilege (*privilegio speciale*): in some cases the law grants a special right to some creditors to be satisfied before other creditors
- Deferment (*postergazione*): a creditor agrees to be satisfied after other creditors which are indirectly privileged

Formalities/Registration requirements:

Any title establishing or transferring rights on real estate must be registered in the Real Estate Register. Only contracts which are signed before a public notary can be registered.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Movable property is defined by exclusion (all what is not real estate). A sub-category is represented by "Registered movable property" (*beni mobili registrati*), i.e. movable goods which are recorded in public registers: motor vehicles, airplanes, ships. The transfer of such property must be registered but they are subject to the rules on movables.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable -simple/extended)

- Pledge (*pegno*): it is granted by contract and implies the transfer of possession to the creditor (or the registration if it concerns registered movable property)
- Pledge without possession (*pegno non possessorio*): a new (2016) form of security which does not imply transfer of possession; in this case the written contract must be recorded in a public register of pledges (not yet established)
- Privilege (*privilegio*): it is granted by the law to some categories of creditors, either on all the movables of the debtor (*privilegio generale*) or on some goods (*privilegio speciale*).

As a general rule, retention of title is not considered a security because it cannot be opposed to third parties who purchase the movable from the debtor in good faith. Retention of title concerning industrial machines can be recorded in register kept by the courts (Tribunale) of the place where the machine is located and in this case it is opposable to third parties, but only if the machine is still in the same place. Retention of title can be opposed to the creditors of the purchaser, provided that the date of contract is certain (*data certa*).

Formalities/Registration requirements

Contracts establishing securities must be in writing. In order to be opposed to third parties, the date of the contract must be certain (*data certa*) i.e. certified by a notary or in other forms.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

There is no definition of intangible movable property.

As intangible movable property can be considered shares/stock (*quote/azioni*), goodwill (*avviamento*), copy right, licenses (*licenze*), account receivables (*crediti commerciali*), patents (*brevetti*), trademarks (*marchi*), internet domains (*dominii internet*), software.

What are common forms of security granted over intangible movable property?

Pledge (*pegno*): it can concern credits or company shares/stocks;

Assignment of the credit to transferred debtor (*cessione del credito*).

Formalities/Registration requirements

Pledge on credits represented by documents requires the transfer of the documents to the creditor.

Pledge on company shares must be registered in the Commercial Register (*Registro delle Imprese*) in order to be opposed to third parties and the contract must be signed before a public notary.

Assignment must be agreed in writing and notified to transferred debtor, otherwise it is not opposable.

SECTION 2 - GUARANTEES: GARANZIE

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- First/On Demand Guarantees
- Personal Guarantees
- Bank Guarantees
- Letters of Comfort
- Others

Yes [X] No []

Yes [X] No []

Yes [X] No []

Yes [X] No []

Formalities/Requirements:

The declaration of the guarantee has to be given in writing.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

The statement of debt has to be drafted by the notary and signed before him.

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

In order to be enforceable, bills (*cambiali*) must contain the stamp duties (*bollo*) paid on the value of the bill.

Cheque

Yes [X] No []

Bank cheques (*assegni bancari*) are issued by the debtor, while bank drafts (*assegni circolari*) are issued and guaranteed by a bank.

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

Letters of credit are issued by banks according to their standards and international rules if applicable.

Eva Knickenberg-Giardina

CLG Italia Studio Legale e Tributario
Via Giacomo Leopardi 14, 20123 Milano, Italy
eva.knickenberg@clgitalia.it

LUXEMBOURG

SECTION 1 - FORMS OF SECURITY OVER ASSETS ("SÛRETES REELLES"):

Real Estate

What is considered real estate in your jurisdiction?

There is no definition of real estate in law. However, the similar concept of immovable property is defined in three forms as (Article 517, Civil Code):

- *Immovable by nature (such as land and buildings under Article 518 of the Civil Code).*
- *Immovable by its destination.*
- *Immovable by the object to which it is fixed.*

Therefore real estate is composed of land and anything permanently affixed to it such as buildings, which are registered together in the same title.

The ownership of land cannot be transferred without simultaneously transferring the immovable property erected on it (except, to some extent, in specific cases of division of ownership such as emphyteusis (that is, a form of long term "lease" allowing the tenant to make full use of the land)).

What are the most common forms of security granted over real estate and give the names in your language?

Security interests over real estate usually take on one of the following forms:

- (1) Mortgage (hypothèque), which can be contractual, legal or judicial.*
- (2) Pledge over real estate (antichrèse).*
- (3) A seller's lien (privilège du vendeur), provided by law to secure payment of the purchase price of the real estate. This lien benefits the seller.*
- (4) A lender's lien (privilège du prêteur de deniers), provided by law to secure the bank debt incurred to finance the acquisition of the real estate. This lien benefits the lender.*

Formalities/Registration requirements:

The creation of valid and enforceable security interests over real estate requires various formalities to ensure clear and guaranteed enforcement of the security interest.

(1) Mortgage. *The mortgage in Luxembourg is created through a written notarial deed which needs to be registered with the Registration Authority (administration de l'enregistrement et des domaines) and, to be enforceable towards third parties, with the mortgage registry (bureau de conservation des hypothèques) of the judicial district in which the real estate is located. The registration with the Mortgage Registry must be renewed after ten years.*

(2) Real estate pledge. *Real estate pledges must be in writing and registered with the Registration Authority and the Mortgage Registry. The pledgee will have full possession of the real estate and is able to collect any income (rent) deriving from it. The real estate pledge will also provide the pledgee with a right of retention on the real estate.*

(3) Seller's lien. *The Seller's lien will provide the seller of real estate with a lien on the sold real estate until receipt of payment of the agreed purchase price in full. The lien requires a notarial deed and must be registered with the Registration Authority and the Mortgage Registry.*

(4) Lender's lien. *The Lender's lien will permit the lender of the acquisition price with a lien until full repayment of the loan. The lien requires a notarial deed confirming that the funds were*

borrowed for the purpose and used for financing the purchase of the real estate and were in fact used for such purpose. The notarial deed must be registered with the Registration Authority and the Mortgage Registry.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Tangible movable property are assets that can be moved from one place to another this even includes financial instruments such a trademarks, patents and shares as well as all machinery, trading stock, aircraft and ships. (Article 517, Civil Code)

For aircraft and ships (weighing more than 20 tons), the laws of 19 June 1966 and 29 March 1978 provide a specific kind of mortgage similar to mortgages on real estate that may be granted over such assets, although mortgages are usually restricted to immovable assets.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

(1) Civil pledges and Commercial pledges

Civil pledges (gage civil) and commercial pledges (gage commercial) can secure most categories of assets, including financial instruments and future assets.

Among pledges the following are commonly used

- *Civil pledge*
- *Commercial pledge*
- *Pledging of business assets*

(2) Transfer of ownership rights

Ownership rights in relation to the assets may be transferred to the lender by way of a fiduciary contract (contrat fiduciaire). The exercise of these rights is limited to the terms agreed between the parties to the fiduciary contract.

(3) Retention of title

Retention of title will reserve the title to goods (ie, movable goods (biens mobiliers), consumer goods (biens de consommation) or capital goods (biens d'équipement) in favour of a seller until the purchased goods have been paid for in full by the buyer.

This enables the seller of the goods to take precedence over any of the purchaser's secured or unsecured creditors in the event that the purchaser fails to pay for the goods due to an event of bankruptcy (faillite) and the goods can be reclaimed under certain conditions by the seller if the purchaser does not make payment for them.

The seller of a non-fungible movable good who agreed with the purchaser to reserve title in its favour until the payment of the full purchase price may claim such good when it can be identified and recovered at the moment the bankruptcy proceedings concerning the purchaser are opened or, when such good is incorporated into another one, it can be recovered without causing a damage to the good into which it is incorporated.

Formalities/Registration requirements

(1) Pledges

The common feature of both commercial and civil pledges is that the dispossession of the grantor of the pledge validly creates the security interest. It is important to note that for any

pledge, either civil or commercial, the lien deriving from the pledge agreement only subsists where the pledged assets are held by the pledgee or by a third party designated as security agent or holder by the pledgee and the pledgor. However the enforceability and validity formalities may differ:

- **Civil pledge (gage civil).** A civil pledge must be in writing (either in notarised form or under private seal) and contain a detailed description of the pledged assets such as their nature and features. Its enforceability against third parties is subject to its notification. The debtor of a pledged claim or receivable must be notified or accept the pledge. The notification or acceptance can take the form of a notice or acceptance letter (either authentic form or under private seal) to be countersigned or signed by the debtor, as the case may be, or the debtor can countersign the pledge agreement for acknowledgment and acceptance purposes.
- **Commercial pledge (gage commercial).** A commercial pledge does not have to be in writing (although this is advisable) and can be proven by any means permitted by the Luxembourg Commercial Code. The enforceability of the pledge against third parties is also subject to notification or acceptance of the debtor as in the case of civil pledge above.
- **Pledge of business assets.** A pledge over a going concern must be in writing (authentic form or under private seal). A going concern under Luxembourg law includes, among other things, the customers, the sign or logo, the concession, the brands, the patents, the lease, the machinery and materials required to exploit the concern. The agreement or notarial deed is subject to stamp duty. To be enforceable against third parties it must be filed with the Mortgage Registry.

(2) Other securities

- **Ownership rights in relation to assets and retention of title** require a written *ad probationem*, i.e. or any sort of prove evidenced in writing (electronic or another durable medium, stating the constitution guarantee enabling the identification of assets). Registration with the Registration Authority is a possibility enabling an additional level or proof but not necessary.
- **Sale and leaseback.** In a sale and leaseback structure an undertaking sells an asset to the creditor (usually a credit institution) and leases it back. The undertaking makes periodic payments equal to the selling price and interest. The credit institution is secured by the property right it acquires over the asset.
- **Factoring.** To ensure the payment of receivables, it is possible to use the factoring mechanism where a financial sector professional purchases commercial debts and proceeds to collect them for his own account when he makes the funds available to the transferor before maturity or before payment of the transferred debts.
- **Hire purchase.** Hire purchase is often used to acquire plant, machinery or immovable property. Usually, a leasing company or a credit institution acquires the item and enters into a leasing contract with an undertaking. After termination of the leasing contract, the undertaking can choose to purchase the item for a residual price. There are different forms of hire purchase (such as financial or operational leasing).
- **Delegation of payment.** This is when a creditor obtains an additional debtor to secure payment of the debt.
- **Set-off.** A creditor may set-off any amount owed to the debtor against any amount owed by the debtor to the creditor.

SECTION 2 – GUARANTEES (“SÛRETES PERSONNELLES”):

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- | | |
|--|------------------|
| • First/On Demand Guarantees (“ <i>Garantie autonome</i> ”) | Yes [X] No [] |
| • Personal Guarantees (“ <i>cautionnement personnel</i> ”) | Yes [X] No [] |
| • Bank Guarantees (“ <i>garantie bancaire</i> ”) | Yes [X] No [] |
| • Letters of Comfort (“ <i>Lettre de patronage</i> ”) | Yes [X] No [] |

Formalities/Requirements:

- **First demand guarantee (*garantie à première demande*).** This is also defined as being “self-sufficient”, it being understood that the guarantor cannot oppose to the lenders any exceptions or exemptions derived from the initial loan agreement nor can the guarantee be automatically transferred with the initial loan agreement. The first demand guarantee as self-sufficient security can re-qualify as a suretyship (*cautionnement*) if it appears from the guarantee agreement that the guarantee is an accessory to the initial loan agreement and its related obligations. The guarantee may take on the form of a letter or an agreement under private seal. The guarantee is not subject to any filing and can be enforceable towards third parties at the time of the letter or the agreement, as applicable.
- **Suretyship (*cautionnement*).** As opposed to the first demand guarantee, the suretyship is an accessory to a principal obligation, it being understood that the guarantor can oppose to the lenders any exceptions or exemptions deriving from the initial loan agreement and the security interest will be automatically transferred with the initial loan agreement as its accessory. The suretyship takes on the form of an agreement under private seal and becomes enforceable against third parties at the time of the agreement. The suretyship is not subject to any filing requirements.
- **Letter of comfort.** In a letter of comfort a parent company commits itself to back the debts of its direct or indirect subsidiary. The letter is not necessarily legally binding and its value depends on the exact wording. The obligations contained in the letter of comfort can either be reinforced by a guarantee or be only of moral value.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction?

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

Declaration in front of the notary stating the exact names of the parties involved and the amount of the debt recognised

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

- the drawer of a bill of exchange must have a bank account;
- the beneficiary may accept the bill of exchange as a means of settling a debt, but is not obliged to do so;

- *The following compulsory information must appear on the bill of exchange for it to be valid:*
 - *the words 'bill of exchange', inserted in the text of the bill;*
 - *the simple authorisation to pay a specific sum;*
 - *the amount to be paid, stated both in figures and written out in full. In the event of a discrepancy, the sum written out in full is the amount payable;*
 - *where the amount is written more than once, either in full or in figures, the lowest sum is the sum payable in the event of a discrepancy;*
 - *where the bill of exchange is for a currency with the same denomination (dollar, for example) but a different value in the country of issue and the country of payment, the currency of the place of payment is supposed to be chosen.*
 - *the name of the drawee (the party that has to pay);*
 - *the name of the beneficiary or payee;*
 - *the place of issue;*
 - *the date of issue;*
 - *the place of payment;*
 - *the due date;*
 - *the signature of the drawer (issuer of the bill of exchange).*
- in the event of omission, it is called a 'blank bill of exchange' which is in principle null and void and is not valid as a bill of exchange. It can, however, be covered by adjusting the blank bill of exchange;*
- *the drawer's bank account must have sufficient funds or have a sufficient credit line on the due date of the bill of exchange, but not necessarily when it is issued.*

Cheque

Yes [X] No []

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

(1) Payment by cheque

Cheques are used to settle all types of purchases and to pay invoices or contracts regardless of the underlying commercial consideration (purchase of movable or immovable assets, delivery of goods, tools, machinery, services, etc.).

The following formalities must be met:

- *the drawer of a cheque must have a bank account;*
- *the drawer must ensure that the payee (beneficiary) accepts payment by cheque (the payee is not obliged to do so);*
- *the following mandatory information must appear on the cheque for it to be valid;*
 - *the word 'cheque', inserted in the text of the cheque;*
 - *the name of the paying entity (the bank drawn on);*
 - *the place where the payment has to be made. If there is no specific indication thereof, the place indicated alongside the drawee bank's name is deemed to be the place of payment;*
 - *the date and place of writing the cheque;*
 - *the signature of the person writing the cheque (drawer);*
 - *the simple authorisation to pay a specific sum;*
 - *the amount to be paid stated in figures and written out in full.*

- *the drawer's bank account must have sufficient funds or have a sufficient credit line when the cheque is presented at the bank for collection to ensure that the payment is executed by the bank.*

According to the law, the cheque is payable at sight, i.e. the day it is presented. Any notation to the contrary is disregarded. A post-dated cheque, i.e. presented for payment before the date indicated as the issue date, is payable on the day it is presented.

The deadlines for presentation of normal cheques are:

- *8 days for cheques issued in Luxembourg;*
- *20 days for cheques issued in a country other than the one in which it is payable, but in a country in Europe or the Mediterranean basin;*
- *70 days for cheques issued or payable outside of Europe and the Mediterranean basin.*

(2) Letter of Credit

Payment by letter of credit is based on pre-established documents, not on the terms of sale or the physical condition of the goods. The letter of credit specifies the documents that must be presented by the exporter, such as an ocean bill of lading (original and several copies), a consular invoice, a draft, and an insurance policy.

The letter of credit also contains an expiration date.

Before payment, the bank is responsible for making payment, and for verifying that all documents conform to the letter of credit requirements. If not, the discrepancy must be resolved before payment can be made and before the expiration date. A letter of credit may be irrevocable and thus cannot be changed unless both parties agree, or revocable, in which case either party may make changes.

The letter of credit may take on the form of a letter or an agreement under private seal. The letter of credit is not subject to any filing and can be enforceable towards third parties at the time of the letter or the agreement, as applicable.

Joram Moyal

M&S Law Sàrl

205, Route d'Arlon, L-1150 Luxembourg

j.moyal@moyal-simon.com

MALTA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction? -

The legal term for real estate under Maltese law is 'immovable property', and a definition of such is found in our Civil Code (Chapter 16, Laws of Malta), as follows:

i. *Article 308 – Civil Code*

*"The things following are immovable **by their nature**:*

- (a) Lands and buildings;*
- (b) Springs of water;*
- (c) Conduits which serve for the conveyance of water in a tenement;*
- (d) Trees attached to the ground;*
- (e) Fruits of the earth or of trees, so long as they are not separated from the ground or plucked from the trees;*
- (f) Any movable thing annexed to a tenement permanently to remain incorporated therewith.*

Unless a different intention appears from the circumstances, such thing shall be deemed to be so annexed to a tenement if it is fastened thereto by any metal or cement, or if it is otherwise so affixed that it cannot be removed without being broken or damaged or without breaking or damaging the tenement.

ii. *Article 310 – Civil Code*

*"The following are immovables **by reason of the object to which they refer**:*

- (a) The dominium directum or the right of the dominus on the tenement let out on emphyteusis, and the dominium utile or the right of the emphyteuta on such tenement;*
- (b) The right of usufruct, or use of immovable and the right of habitation;*
- (c) Praedial easements;*
- (d) Actions for recovering or claiming any immovable thing or any of the rights mentioned in paragraphs (a),(b) and (c) of this article; or for a declaration that an immovable is not subject to any of such rights; or for claiming any inheritance or part thereof, or the reserved portion or any other portion of hereditary property given by law;*

What are the most common forms of security granted over real estate and give the names in your language?

The two main forms of security granted over immovable property in Malta are the 'privilege' (privileġġ) and the 'hypothec' (ipoteka).

Privilege is a security which arises by virtue of the nature of the debt it relates to, and may be general (all property) or special (specific property). Privileges over immovable property are deemed special, and attach to said immovable property even if the property is transferred to

third parties. Typical privileged creditors over immovables include architects, contractors, masons, and banks and lending institutions providing finance for the acquisition of the immovable property.

Hypothec is a security which is created over property regardless of the nature of the debt, and may also be general (all property) or special (specific property). With regard to immovable property, a special hypothec can be created over things immovable by their nature, rights of usufruct over said immovable things, and the dominium directum over the said immovables given on emphyteusis, and the dominium utile over such immovable. The basis of a hypothec may be legal, judicial or conventional: it is legal if it arises by operation of law; it is judicial if it originates from a judgment; it is conventional if it is established by contract. Like privileges, a special hypothec over immovable property continues to attach even if the property is transferred to third parties.

Formalities/Registration requirements:

Privileges over immovable property are ineffectual unless they are registered in the Public Registry within two months. Registration does not require the consent of the debtor. Once they are successfully registered within the two month period, they shall not be affected by any alienation of the property charged with the privilege, or by any other hypothec or other burden created thereon, even if such occurred prior to registration.

A hypothec is constituted by a public deed drawn up by the debtor and creditor before a notary public. It is ineffectual unless registered in the Public Registry, and becomes effective only upon date of registration.

Registrations are effected by submitting a note to the Director of the Public Registry which will contain certain particulars as defined in Maltese law.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

The definition of 'movable property' under Maltese law is found in our Civil Code, as follows:

i. Article 312 – Civil Code

“All things, animate or inanimate, which, without any alteration of their substance, can move themselves or be moved from one place to another are movable by nature, even though such things form a collection or a stock-in-trade.”

Movables also include materials derived from a building which has been demolished, or gathered for erecting a new building, until they are used in construction. Ships, watercraft and other floating structures are also considered movable.

What are common forms of security granted over tangible movable property?

Common forms of security granted over tangible movable property are the following:

- i. Pledge of movable things - delivery to the creditor of the thing pledged or of the document conferring the exclusive right to the disposal of the thing. Delivery may also occur to a third party if agreed to by both debtor and creditor. This is the highest ranking security under Maltese civil law, however it is impractical as it is not always feasible that the pledged movable be transferred to the creditor/third party (such as in cases of machinery, stock etc.).*

- ii. *Special Privilege – Maltese law establishes special privileges over particular movables, including a privilege in favour of a pledgee over the movable which he holds as pledgee, and a privilege in favour of the vendor/creditor over the movable which said vendor/creditor has sold to the debtor.*
- iii. *General hypothec – this security attaches to all of the present and future assets of the debtor, thus including tangible movable property. The problem is that there is nothing which can legally prevent the debtor from alienating the movable property to third parties, and once it is so alienated, the security no longer attaches to the movable.*
- iv. *Security by title transfer - a contract whereby the debtor transfers or assigns the title over movable things, whether by nature or by operation of law, so as to secure a present or future obligation, to a creditor or a third party as security trustee. The creditor then has an obligation to re-transfer the movable back to the borrower, if and when the underlying debt has been paid.*
- v. *Mortgage – registered over ships and aircraft.*

Formalities/Registration requirements

- i. *Pledge of movable things - where the asset being pledged is tangible property the pledge is established by the delivery to the creditor of the thing pledged or the document granting the exclusive right to the disposal of the thing*
- ii. *Special privilege – same procedure as discussed above.*
- iii. *General hypothec – same procedure as discussed above.*
- iv. *Security by title transfer – rendered effective by agreement in writing between the debtor and creditor.*
- v. *Mortgage – registered with the Shipping Register / Aircraft Register.*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

The Civil Code does not define intangible movable property, but Article 315 does make reference to movables which are not movable by nature, but which qualify as movable by regulation of law:

- i. *Shares or interests in commercial or industrial companies, even if immovable property is owned by such companies; in which latter case such shares or interests shall be deemed to be movables with respect to each shareholder and only as long as the company lasts;*
- ii. *Life or perpetual annuities, including capital and annuities;*
- iii. *Generally, all obligations, actions, even if hypothecary, and rights not considered immovable.*

The above thus provides a comprehensive definition of movables which do not qualify as movable by their nature, and can thus be deemed to be intangible movable property.

What are common forms of security granted over intangible movable property?

- i. *Pledge of movable things – as with tangible movable property, a pledge may be granted over intangible movable property. The most common security granted over intangible movables relates to the pledge of shares, receivables, bank deposits and financial*

instruments. Where the asset being pledged is intangible property with no document conveying the exclusive right to its disposal, the pledgee can only enforce its rights if the pledge results from a public deed or private writing and notice of the pledge is given by means of a judicial act served on the debtor, or the pledge is otherwise acknowledged in writing by the debtor.

- ii. General hypothec – since this covers all present and future assets of the debtor, intangible movables may be secured by a general hypothec as discussed above, and subject to the limitations discussed above.*
- iii. Security by title transfer – as with tangible movables, this security is made by a contract whereby the debtor transfers or assigns the title over movable things so as to secure a present or future obligation, to a creditor or a third party as security trustee. The creditor then has an obligation to re-transfer the movable back to the borrower, if and once the underlying debt has been paid.*

Formalities/Registration requirements:

- i. Pledge of movable things – same procedure as discussed above.*
- ii. General hypothec – same procedure as discussed above.*
- iii. Security by title transfer – same procedure as discussed above.*

SECTION 2 – GUARANTEES (Garanziji):

Are guarantees used in your jurisdiction? Yes ☒ No ☐

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|---|
| • First/On Demand Guarantees | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| • Personal Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Bank Guarantees | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Letters of Comfort | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| • Others | |

Formalities/Requirements: Contractual and need not be registered.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes ☒ No ☐

If yes, what are the formalities? –

*Referred to in Maltese as a *kostituzzjoni ta' debitu*, this is a contract whereby a debtor officially declares a debt which is certain, liquid and due to a creditor. The contract is made before a notary public and qualifies as an executive title at law, thus not requiring recourse to the Courts so that it may be enforced by the creditor. It must also relate to a monetary obligation, and may not relate to the performance of an act.*

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

Bills of exchange (kambjali) must be dated, and must specify the place where it is drawn, the sum to be paid, the name of the person who is to pay, and the name of the person to whom or to whose order payment is to be made, the time and place of payment, and the value given, whether in cash, in goods, in account, or in any other manner; and must be signed by the drawer.

Cheque

Yes [X] No []

Letters of Credit

Yes [X] No []

If yes, what are the formalities? – None.**Edward DeBono**

Fenech & Fenech Advocates
198, Old Bakery Street, Valletta VLT1455, Malta
Edward.Debono@fenlex.com

THE NETHERLANDS

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

According to article 3:3 (1) of the Dutch Civil Code, 'Immovable' (aka real estate) are the land, the not yet mined minerals, the plants connected with the land, and the buildings and constructions permanently attached to the land, either directly or through a connection with other buildings or constructions.

What are the most common forms of security granted over real estate and give the names in your language?

A right of mortgage (NL: hypotheek) is the only form of security that can be granted over immovable property.

Formalities/Registration requirements:

A registered notarial deed (NL: geregistreerde notariële akte). These deeds are registered in the land register.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

According to article 3:3 (1) of the Dutch Civil Code, 'Movable' (aka tangible movable property) are all things that are not immovable (article 3:3 (2)). Non tangible things / property rights are excluded.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Except in case of registered ships and aircrafts, most common are the right of pledge (NL: pandrecht) and the retention of title (simple and extended) (NL: eigendomsvoorbehoud). In case of registered ships and aircrafts, a right of mortgage (NL: hypotheek) is the only possibility.

Formalities/Registration requirements:

Depending on the type collateral that is being pledged and the type of right of pledge (possessory or non-possessory), different formalities and registration requirements apply. In case of tangible movable property and a non-possessory right of pledge, in general the following applies. Parties can either opt for a deed executed before a Dutch civil law notary or a written agreement that is registered with the tax inspectorate. This register is non-public and registration is for date stamping purposes only.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

According to article 3:6 of the Dutch Civil Code, 'Property rights' (aka intangible movable property) are rights which, either separately or together with another right, are transferrable, or which intend to give its proprietor material benefit or which are obtained in exchange for supplied or the prospect of still to supply material benefit.

What are common forms of security granted over intangible movable property?

Most common is the right of pledge (NL: pandrecht).

Formalities/Registration requirements:

Depending on the type collateral that is being pledged and the type of right of pledge (for instance in case of receivables; disclosed or undisclosed), different formalities and registration requirements apply. In case of (a) an undisclosed right of pledge of receivables, (b) a disclosed right of pledge of a bank account and/or (c) a right of pledge of intellectual property rights, parties can either opt for a deed executed before a Dutch civil law notary or a written agreement that is registered with the tax inspectorate. This register is non-public and registration is for date stamping purposes only.

In case of intellectual property rights, a registration of the right of pledge in the IP-registers is not required, but is advised. Without registration of the right of pledge in these IP-registers, the right of pledge cannot be invoked against third parties who have relied in good faith on the information registered with the relevant public IP-register.

SECTION 2 – GUARANTEES (NL: GARANTIES):

Are guarantees used in your jurisdiction?

Yes [x] No []

What types of guarantees are used in your jurisdiction?

- | | |
|--|------------------|
| • First/On Demand Guarantees | Yes [x] No [] |
| • Personal Guarantees | Yes [x] No [] |
| • Bank Guarantees | Yes [x] No [] |
| • Letters of Comfort | Yes [x] No [] |
| • Others: | |
| - Surety Agreement (NL: Borgtochtvereenkomst) | |
| - Retention of Title (NL: Eigendomsvoorbehoud) | |

Formalities/Registration requirements:

In general, no formalities and/or registration requirements apply. The Dutch Civil Code requires the personal surety agreement to be included in a written agreement.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt (NL: Notariële schuldbekentenis) Yes [x] No []

If yes, what are the formalities?

A deed executed before a Dutch civil law notary.

Bill of Exchange (NL: Wissel) Yes [x] No []

Cheque (NL: Cheque) Yes [x] No []

Letters of Credit (NL: documentair krediet) Yes [x] No []

Toine Hitzert

Mistral Advocaten

Jaap Bijzerweg 8d, 3446 CR Woerden, The Netherlands

hitziert@mistraladvocaten.nl

POLAND

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate is part of the earth's surface constituting a separate object of ownership (land), as well as buildings permanently attached to the land or parts of such buildings if, under specific regulations, they constitute an object of ownership separate from the land.

What are the most common forms of security granted over real estate and give the names in your language?

- mortgage (*hipoteka*)
- compulsory mortgage (*hipoteka przymusowa*)

Formalities/Registration requirements:

Agreement in the form of a notarial deed. Mortgage registration in the land and mortgage register. In case of compulsory mortgage – enforceable title.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Thing. Within the meaning of this Code, „things” are material objects only, f.ex. cars, other vehicles, agricultural machinery, furniture.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- Pledge (*Lien*)/*Zastaw/Zastaw rejestrowy*
- Assignment by way of security (*Przewłaszczenie na zabezpieczenie*)

Formalities/Registration requirements

Written agreements, sometimes (pledge) – registration in a pledge register.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

The same: . intellectual property rights such as trademarks and patents, shares, bonds, business, claims, securities, receivables.

What are common forms of security granted over intangible movable property?

- *Pledge (Lien)/Zastaw/Zastaw rejestrowy*
- *Assignment by way of security (Przewłaszczenie na zabezpieczenie)*
- *Cession (Cesja)*

Formalities/Registration requirements

Written agreements, sometimes (pledge) – registration in a pledge register.

SECTION 2 - GUARANTEES: GWARANCJE, PORĘCZENIA

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**
- **Bank Guarantees**
- **Letters of Comfort**
- **Others**

Yes [X] No []

Yes [X] No []

Yes [X] No []

Yes [] No [X]

Formalities/Requirements:

Written greement.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

Notarial deed.with declaration of submission to enforcement.

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

Form of Bill of Exchange signed by a debtor, bill declaration.

Cheque

Yes [] No [X]

Letters of Credit

Yes [] No [X]

If yes, what are the formalities?

Michał Rączkowski

RK Legal

ul. Wilcza 46, IV p. 00-679 Warszawa, Poland

raczkowski@rklegal.pl

PORTUGAL

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real Estate are all rustic or urban buildings, water courses, trees, bushes and natural fruits as long as they are connected to the soil, as well as all rights intrinsic to the real estate aforementioned and the integrant parts of urban and rural real estate.

A rustic building is a limited part of the soil and all construction in it, as long as said construction does not possess individual economic value. An urban building is any building incorporated in the soil with all the belongings that serve as a patio.

What are the most common forms of security granted over real estate and give the names in your language?

- *Hipoteca (Mortgage)*
- *Cláusula de Reserva de Propriedade (Retention of Title)*
- *Impugnação Pauliana (Impugnatio)*
- *Arresto (Seizure)*

Formalities/Registration requirements:

- *Mortgage: There are different types of mortgage, as it may be legal, judicial or voluntary. The latter must be completed by means of public deed or by a certified private document. Moreover, to produce its legal effects a mortgage must be registered at the Land Registry Office.*
- *Retention of Title: Should be incorporated by means of a duly authenticated contract or public deed and is also subject to registration at the Land Registry Office so it can be used against any third parties.*
- *Impugnatio: It is done by means of a law suit for such purpose and is not subject to specific conditions.*
- *Seizure: It is done by means of a law suit for such purpose and is not subject to specific conditions.*

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Under Portuguese law tangible moveable property, is any other object that does not fall in the definition of real estate, like any of the aforementioned examples.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- *Penhor (Pledge)*
- *Cláusula de Reserva de Propriedade (Retention of Title)*
- *Direito de Retenção (Right of Retention)*
- *Impugnação Pauliana (Impugnatio)*
- *Arresto (Seizure)*

Formalities/Registration requirements

- *Pledge: Should be incorporated by means of a contract and no registration required.*
- *Retention of Title: Should be incorporated by means of a contract and no registration required.*
- *Right of Retention: Should be incorporated by means of a specific applicable law or contract and no registration required.*
- *Impugnatio: It is done by means of a law suit for such purpose and no registration is required.*
- *Seizure: It is done by means of a law suit for such purpose and no registration is required.*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intangible movable property are all belongings that are not immovable and nor tangible, including any stock, bonds, equity titles, participation units in investment structures, autonomous warrants as well as any autonomous rights separable from the previous property types mentioned above.

What are common forms of security granted over intangible movable property?

The types of securities applicable to this sort of property are all the mentioned above related to tangible movable property.

SECTION 2 - GUARANTEES:[Garantias]

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
Garantias à primeira solicitação
- **Personal Guarantees**
Garantias Pessoais
- **Bank Guarantees**
Garantias Bancárias
- **Letters of Comfort**
Cartas de Conforto

Yes [X] No []

Yes [X] No []

Yes [X] No []

Yes [X] No []

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes [X] No []

If yes, what are the formalities?

Incorporated by duly authenticated contract or public deed.

Bill of Exchange Yes [X] No []

If yes, what are the formalities?

Formalities are in accordance with Uniform Law For Bills of Exchange and Promissory Notes (Geneva, 1930)

Cheque Yes [X] No []

Letters of Credit Yes [X] No []

Pedro Pais de Almeida

Abreu Advogados

Av. Das Forças Armadas, 125 - 12.º, 1600-079 Lisboa, Portugal

ppa@abreuadvogados.com

RUSSIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

- *Land plots*
- *Subsoil plots*
- *Anything that is inseparable from land, i.e. objects whose relocation is impossible without causing incommensurate detriment to their designated purpose, such as buildings, facilities and incomplete constructions*
- *Aircrafts, ships, marine and inland vessels subject to state registration*
- *Other items can be stipulated as real estate in the federal laws of the Russian Federation e.g.:*
 - *Plants (Enterprises) as an property complex (“Predpriyatiye v tselom kak imushchestvenny kompleks”)*
 - *United real complex (“Ediny nedvizhimy kompleks”) as the whole of buildings, facilities and other things inextricably intertwined physically or technologically and be bound up by certain purpose*

What are the most common forms of security granted over real estate and give the names in your language?

- *Mortgage of real estate (“zalog nedvizhimogo imushchestva (ipoteka)”)*
- *Seizure as an interim measure to secure the claim (“arest kak mera obespecheniya iska”)*

Formalities/Registration requirements:

- *Written form, state registration*

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

- *Things (RES) which are not real estate as stated above (plants as an property complex, airplanes, ships and vessels subject to state registration are considered as real estate)*

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- *Pledge (“zalog”)*
- *Retention of Title – (“sokhraneniye prava sobstvennosti”)*
- *Lien (“uderzhaniye”)*

- *Seizure as an interim measure to secure the claim (“arest kak mera obespecheniya iska”)*

Formalities/Registration requirements

- *Written form*
- *State registration in some cases prescribed by the law e.g. for vehicles*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

- *intellectual property rights, shares, paperless book-entry securities etc.*

What are common forms of security granted over intangible movable property?

- *Pledge (“zalog”)*
- *Retention of Title – (“sokhraneniye prava sobstvennosti”)*
- *Seizure as an interim measure to secure the claim (“arest kak mera obespecheniya iska”)*

Formalities/Registration requirements

- *Written form*
- *State registration in some cases prescribed by the law*

SECTION 2 - GUARANTEES:

[Nezavisimaya garantiya & poruchitelstvo]

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|------------------|
| • First/On Demand Guarantees | Yes [X] No [] |
| • Personal Guarantees | Yes [X] No [] |
| • Bank Guarantees | Yes [X] No [] |
| • Letters of Comfort | Yes [] No [X] |
| • Others | |

Formalities/Requirements:

- *Written form prescribed by the law*

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

- *The debtor has to appear in person at the notary*

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

- *Written form prescribed by the law*
a Bill of Exchange must contain:
 - 1) *The term "bill of exchange";*
 - 2) *An unconditional order to pay a determinate sum of money;*
 - 3) *The name of the person who has to pay;*
 - 4) *A statement of the time of payment;*
 - 5) *A statement of the place where payment is to be made;*
 - 6) *The name of the person to whom or to whose order payment is to be made;*
 - 7) *A statement of the date and of the place where the bill is issued;*
 - 8) *The signature of the person who has issued the bill.*

Cheque

Yes [X] No []

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

- *Written form prescribed by the law*
Banks set the requirements to the form and the requisites of Letters of Credit, but a Letter of Credit must contain in all cases:
 1. *The number and the date of the Letter of Credit;*
 2. *The sum of the Letter of Credit;*
 3. *The requisite details of the payer;*
 4. *The requisite details of the issuing bank;*
 5. *The requisite details of the payee;*
 6. *The requisite details of the nominated (paying) bank;*
 7. *The category of the Letter of Credit;*
 8. *The period of validity of the Letter of Credit;*
 9. *Availability of the Letter of Credit;*
 10. *The list of documents that must be presented for payment, requirements thereto;*
 11. *Purpose of payment;*
 12. *The term of presentation of the documents that must be presented for payment;*
 13. *The necessity of a confirmation (if applicable);*
 14. *The order of payment of the bank's commission.*

Robert Schulze

Schulze Brutyan Law Office

Gebäude 10, Office 720, 1. Magistralnij tupuk, H. 11, 123290 Moskau/ RF, Russia

mail@schulzebrutyan.com

SERBIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Serbian law doesn't contain a definition of real estate but in theory and in Pre-draft of Code of Ownership and Other Property Rights it can be defined as "immovable property"- the object that cannot change place, or with the change of place it collapses or considerably loses its value.

E.C Land, buildings, apartments, other building constructions etc.

Objects that have separate identity and can be detached with relative ease, without causing substantial damage to the immovable property on which they are situated are considered to be part of immovable property, also the movable objects that serve for the exploitation of immovable property are also considered part of that property (e.c. agricultural machinery on the farm)

What are the most common forms of security granted over real estate and give the names in your language?

At present, the only type of real estate security in Serbian law is Hypothec (mortgage). Hypothec is an accessory real estate security (i.e. it serves for the securing a certain receivable of which it cannot be legally detached).

The main legal source for substantive regulation of hypothec in Serbian law is the 2005 Law on Hypothec (Zakon o hipoteci)

The hypothec encumbers one or more specific real estates as its subject-matter, and it exists for securing one (or more, whereas this is not explicitly contained in the ZH but also not excluded) receivable(s) of the secured ('hypothecary') creditor. Hypothec in a form of a letter does not exist in Serbian law. Most of the substantial rules regarding the hypothec are contained in the law on hypothec, but other laws deviate from those rules at certain issues. Therefore there are several sub-types of hypothec, depending on the criteria for classification. So, related to the title upon which the hypothec is established, there are hypothec based upon contract or court settlement, hypothec based upon declaration of owner of the real estate - unilateral declaration hypothec, , hypothec based upon the statute - statutory hypothec, and hypothec based upon the court decision - court hypothec, , whereas the statutory rules pertaining to the contractual hypothec apply to the other three types if nothing else is provided by law.

Formalities/Registration requirements:

The contract must be concluded in written form, and the signatures must be verified by the court or other authorized body. The contract on hypothec must contain: names and addresses of the debtor and the owner of the encumbered real estate (if they are not the same); clausula intabulandi, i.e. the unconditional declaration of the owner of the real estate that it allows the registration of hypothec on his/hers real estate, precise data on the receivable that is being secured – currency of calculation and of payment (receivables in foreign currency are explicitly

allowed), amount of each installment and time of maturity thereof, place and manner of payment, respectively data on principle sum, interest rate or the elements upon which it may be determined, place and manner of interest payment, as well as amount of other ancillary payments if they are agreed, and the maturity of the receivable, respectively the way by which the maturity is to be determined, if no deadline is foreseen; data on the encumbered real estate with the proof of ownership, and data on fixtures and other parts of the real estate that are encumbered with the hypothec.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Movable property is anything which can be moved from place to place without damage to itself. Generally, all property which is not immovable property is classified as movable property.

Tangible movable property includes aircraft and ships. There are particular formalities applying to aircraft and ships. In Serbian law all changes of the property rights on Aircrafts and ships must be recorded in the register kept by the Civil Aviation directorate of the republic of Serbia for aircraft and Authority for determination of the seaworthiness of Serbia for ships.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Pledge. *A pledge is a type of security of movable property given by a borrower (pledgor) in favour of a lender (pledgee) as security for a debt or other obligation.*

There are two types of pledge in Serbia:

A) Possessory pledge (Ručna zaloga; zaloga) *By a contract of pledge a debtor or a third party (pledger) shall assume the obligation to a creditor (pledgee) to deliver to him a movable object in relation to which there exists the right of ownership, so that he can, before other creditors, effect collection out of its value, should his claim not be paid when due, while the creditor shall assume the obligation to keep the accepted object and return it to the pledger undamaged after the termination of his claim.*

B) Non-possessory pledge (registrovana zaloga) *is pledge constituted on movable property without delivery of the encumbered object, instead the pledgees right is registered in central security registry.*

Sale with reserving the right of ownership. *A seller of a specific article of movable property may, through special clause in the contract, reserve the right of ownership even after delivering the object to the buyer – until the latter pays the price completely.*

Reserving the right of ownership shall affect buyer's creditors only after being made in the form of a certified document, prior to buyer's insolvency or prior to the seizure of his property.

The right of ownership of articles of movable property which are filed in special public records may be reserved only if so provided by regulations covering the system of filing of such records.

Financial leasing. *The financial leasing transaction by the terms of Serbian law shall be understood to be a transaction where the grantor of leasing concludes with the recipient of leasing a contract of financial leasing by which he commits himself to transfer onto the recipient of leasing the authority of holding and using the subject of leasing in accordance to the*

stipulated time limit, while the recipient of leasing assumes the obligation to pay to him for the above a stipulated fee, in the installments agreed upon.

Formalities/Registration requirements

Pledge.

A) Possessory pledge. *An contract must be created between the pledgee and the pledger together with delivery of the pledged movable property to the pledgee. Title to the movable property remains with the pledger, subject to the pledgee security interest. There are no registration or notification requirements for a pledge.*

B) Non-possessory pledge. *An contract must be created between the pledgee and the pledger together with registration of the pledgees right in the central registry of pledge without delivery of the pledged movable property to pledgee.*

Sale with reserving the right of ownership.. *for validity of sale with retention of property rights contract, the contract itself must be provided for such a clause.*

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intangible movable property in Serbia are considered:

- 1) Claims and receivables such as quotas in limited liability companies and payment claims.*
- 2) Intellectual property rights such as trademarks, designs and patents.*

What are common forms of security granted over intangible movable property?

Charges can be established on claims and receivables and intellectual property rights.

Formalities/Registration requirements

A charge is created in two steps:

- 1) A charge agreement is executed.*
- 2) The charge is registered in the Central Security Registry or the registry where the right is registered.*

SECTION 2 - GUARANTEES:[Garancije / Sredstva obezbeđenja]

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|----------------|
| • First/On Demand Guarantees | Yes [] No [X] |
| • Personal Guarantees | Yes [X] No [] |
| • Bank Guarantees | Yes [X] No [] |
| • Letters of Comfort | Yes [] No [X] |
| • Others | |

Personal guarantees. By a contract of warranty (guarantee) warrantor (guarantor) shall assume an obligation to a creditor to fulfil a valid and due obligation of a debtor, should the latter fail to do so.

Bank guarantees. By a bank guarantee a bank shall assume the obligation to a recipient of the guarantee (beneficiary) to settle his obligation, should a third person fail to fulfil on maturity the obligation due to him, if the terms specified in the guarantee are met accordingly.

Letters of credit. By accepting the request of the orderer for opening a letter of credit, the bank shall assume the obligation to pay to the beneficiary of the letter of credit the specified amount of money upon compliance, within the time specified, with the terms and conditions specified in the order for opening the letter of credit.

Formalities/Requirements:

Personal guarantees. A contract of warranty shall produce an obligation for the warrantor only after his statement on warranty is made in writing.

Bank guarantees. A guarantee must be issued in writing.

Letters of credit. A letter of credit must be made in written form.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

A document must be made and notarized before a public notary by the appropriate legal procedure.

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

Bill of exchange must meet next requirements:

- 1) To be labeled as a bill, written on the document itself, in the language in which it is composed.*
- 2) Unconditional instruction to pay certain amount of money.*
- 3) The name of the one who is to pay (drawee).*
- 4) Indication of maturity.*
- 5) The place where payment is to be executed.*
- 6) The name of the person to whom or to whose order payment is executed (payee).*
- 7) The date and place where the bill is issued.*
- 8) Signature of the person who issued the bill (drawer).*

Cheque

Yes [X] No []

If yes, what are the formalities?

Cheque must meet next requirements:

- 1) To be labeled as a cheque, written on the document itself, in the language in which it is composed.*

- 2) *Unconditional instruction to pay certain amount of money from the drawer coverage.*
- 3) *The name of the one who is to pay (drawee).*
- 4) *The place where payment is to be executed.*
- 5) *The date and place where the cheque is issued.*
- 6) *Signature of the person who issued the cheque (drawer).*

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

A letter of credit must be made in written form.

Andrej Prekajski

Andrej Prekajski Law Office
Sarajevska 73/18, 11000 Belgrade, Serbia
Andrej@prekajski.com

SLOVAKIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

Real estate are land and buildings that are connected to the ground by a solid foundation.

What are the most common forms of security granted over real estate and give the names in your language?

Lien. Záložné právo.

Formalities/Registration requirements:

Land register also called cadastre office.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Anything that is not considered as real estate. So all of the above mentioned are considered as tangible movable property.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Lien. Záložné právo. Such a right must be registered in various registers. If a special register does not exist it is the notarial register of liens.

Formalities/Registration requirements

Such a right must be registered in various registers. If a special register does not exist it is the notarial register of liens.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

The above mentioned are considered as intangible movable property.

What are common forms of security granted over intangible movable property?

Liens.

Formalities/Registration requirements

Such a right must be registered in various registers. If a special register does not exist it is the notarial register of liens.

SECTION 2 - GUARANTEES:[Záruky]

Are guarantees used in your jurisdiction? Yes [•] No []

What types of guarantees are used in your jurisdiction?

- First/On Demand Guarantees Yes [•] No []
- Personal Guarantees Yes [•] No []
- Bank Guarantees Yes [•] No []
- Letters of Comfort Yes [] No [•]
- Others

Formalities/Requirements:

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes [•] No []

If yes, what are the formalities?

Must be prepared in form of a notarial deed and the debt must be exactly defined and an payment date must be stipulated.

Bill of Exchange Yes [•] No []

If yes, what are the formalities?

As defined in act 191/1950 Zb. that is almost identical to Austrian and Czech law.

Cheque Yes [•] No []

As defined in act 191/1950 Zb. that is almost identical to Austrian and Czech law.

Letters of Credit Yes [•] No []

If yes, what are the formalities?

This depends on the bank issuing the letter of credit, but basically a definition of parties, definition of credit and other rights and obligations.

Michal Bohunický

Bohunický & Co. S.R.O.

Advokátska Kancelária

Dunajská 48, 81108 Bratislava, Slovakia

michal.bohunicky@bco.sk

SLOVENIA

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

According to the Article 18 of the Law of Property Code (Official Gazette of the Republic of Slovenia Nr. 87/02 and its later amendments; hereinafter: "Law of Property Code") the basic definition of the real estate is: "spatially defined piece of earth's landscape, including its components" (i.e. anything that is permanently affixed to the real estate).

However, other Slovenian Acts extend / supplement this basic definition and therefore the term real estate under Slovenian law also includes:

- **Building that is built on the plot of land on the ground of established Building Right** (Article 11 of the Land Register Act, Official Gazette of the Republic of Slovenia Nr. 58/03 and its later amendments, hereinafter: "Land Register Act");
- **Individual part of a building being in Co-Ownership with divided individual parts** (Article 11 of the Land Register Act and Article 107 of the Law of Property Code).

What are the most common forms of security granted over real estate and give the names in your language?

- **Mortgage** (In Slovenian language: "Zastavna pravica na nepremičnini" or "Hipoteka")

Formalities/Registration requirements:

According to the Article 141 of the Law of Property Code the formalities/registration requirements are the following:

- A mortgage agreement must be concluded in a written form that includes an intabulation clause. The agreement can be also concluded in a form of an immediately enforceable notarial deed;
- notary certified signature of the mortgagor on the mortgage agreement;
- registration of the mortgage in the land register.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

According to the Article 18 of the Law of Property Code tangible movable property is everything that is not considered as real estate.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- **Possessory Lien** (In Slovenian language: "Zastavna pravica na premičninah" or "Ročna zastava"; Article 155 of the Law of Property Code);
- **Non-possessory Lien** (In Slovenian language: "Neposestna zastavna pravica na nepremičninah"; Article 170 of the Law of Property Code);

- **Fiduciary transfer of Ownership Right as security** (In Slovenian language: “Fiduciarni prenos lastninske pravice v zavarovanje”; Article 201 of the Law of Property Code);
- **Retention of Title - simple** (In Slovenian language: “Pridržek lastninske pravice”; Article 520 of the Code of Obligations, Official Gazette of the Republic of Slovenia Nr. 83/01 and its later amendments; hereinafter: “Code of Obligations”);
- **Retention of Title – extended** (In Slovenian language: “Podaljšani pridržek lastninske pravice”; this form of security is not explicitly regulated in our legislation, however is often used in day to day business).

Formalities/Registration requirements

1. Possessory Lien:

- i. Conclusion of a Lien Agreement (verbal form is sufficient);
- ii. Delivery of a collateral to the creditor or a third party, acting as a depositary.

2. Non-possessory Lien:

- i. Lien agreement concluded in form of an immediately enforceable notarial deed;
- ii. For some sort of tangible movable property (e.g. vehicles, stock, etc.) also registration of lien in relevant public registry is required.

3. Fiduciary transfer of Ownership Right as security:

- i. Agreement for Fiduciary transfer of Ownership Right in form of an immediately enforceable notarial deed;
- ii. Collateral stays in possession of debtor or is delivered to the third party, acting as a depositary.

4. Retention of Title - simple:

- i. Provision / clause regarding the establishment of Retention of Title has to be included in a written Sales Agreement. In order to be legally effective against (other) buyer's creditors also in insolvency and execution procedures, buyer's signature needs to be notary certified before the buyer's insolvency procedure starts res. before movable property is seized in an execution procedure.

5. Retention of Title – extended:

Formalities / Registration requirements are similar to the simple Retention if the Title. The extended Retention of Title must be stipulated in a written agreement. In case of a new transfer of goods (i.e. new sales agreement concluded between first buyer and new-second buyer) Retention of Title is automatically terminated and the first vendor automatically at the same time obtains from the first buyer his claim for payment against the second buyer (Fiduciary transfer of claim for payment).

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

There is no official definition of intangible movable property in Slovenian legislation. However, intellectual property rights, securities, claims, etc., can be considered as intangible movable property.

What are common forms of security granted over intangible movable property?

- **Lien on Rights** (In Slovenian language: “Zastavna pravica na pravicah”; Article 178 of the Law of Property Code);
- **Lien on a Security** (In Slovenian language: “Zastavna pravica na vrednostnem papirju”; Article 187 of the Law of Property Code);
- **Fiduciary Transfer of Claims** (In Slovenian language: “Fiduciarna cesija” or “Odstop terjatve v zavarovanje”; Article 207 of the Law of Property Code).

Formalities/Registration requirements

1. Lien on Rights:

- i. Conclusion of a Lien Agreement (no special form is required);
- ii. Notification of the debtor regarding establishment of the Lien.

2. Lien on a Security:

- i. Form of registration depends on the type of the security (e.g. on dematerialized securities a lien must be registered in the Central registry of holders of dematerialized securities).

3. Fiduciary transfer of Claims:

- i. Agreement for Fiduciary transfer of Claims.

SECTION 2 - GUARANTEES:[Give the name in your language]

Are guarantees used in your jurisdiction?

Yes [x] No []

What types of guarantees are used in your jurisdiction?

- | | |
|-------------------------------------|------------------|
| • First/On Demand Guarantees | Yes [] No [x] |
| • Personal Guarantees | Yes [x] No [] |
| • Bank Guarantees | Yes [x] No [] |
| • Letters of Comfort | Yes [] No [x] |
| • Others | |

Formalities/Requirements:

- 1. Personal Guarantees – Surety** (In Slovenian language: “Poroštvo”; Articles 1012 and 1013 of the Code of Obligations):
 - Written consent of the guarantor.
- 2. Bank Guarantees** (In Slovenian language: “Bančna garancija”):
 - Usually a written Agreement in connection with which the requested Bank Guarantee shall be issued and all documentation pertaining to the Agreement must be provided to the Bank.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt Yes [] No [x]

If yes, what are the formalities?

Bill of Exchange Yes [x] No []

If yes, what are the formalities?

Must be issued in a written form with all compulsory components that are stipulated in the Bill of Exchange Act (Official Gazette of the Socialist Federal Republic of Yugoslavia Nr. 104/46 and its later amendments).

Cheque Yes [x] No []

Letters of Credit Yes [x*] No []

**Granted usually by Bank institutions.*

If yes, what are the formalities?

The Bank, which issues the Letter of Credit, defines the formalities / conditions, under which the Letter of Credit can be issued.

Metod Zagar

ODVETNIŠKA PISARNA UŠENIČNIK ŽAGAR d.o.o.
Celovška cesta 150, SI-1000 Ljubljana, Slovenia
metod@useniknik-zagar.si

SPAIN

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

The Spanish Civil Code gives a traditional definition to the Real Estates, as the property that can not be moved.

In this sense, the article 334 of the Spanish Civil Code establishes: "The following are immovable property:

- 1. Land, buildings, roads and constructions of all kinds which are joined to the ground.*
- 2. Trees and plants and pending fruits, while they are joined to the earth or form integral part of an immovable property.*
- 3. Anything which is joined to an immovable property on a fixed basis, so that it cannot be separated therefrom without breaking the material or impairing the object.*
- 4. Statues, reliefs, paintings or other objects of use or ornamentation, placed on buildings or on land by the owner of the immovable property, in such a way that reveals the purpose of uniting them to the land on a permanent basis.*
- 5. Machines, vessels, instruments or utensils destined by the owner of the property to the industry or undertaking performed in the building or landed property, and which are directly destined to satisfy the needs of the undertaking itself.*
- 6. Animal farms, dovecotes, beehives, fish tanks or analogous hatcheries, when the owner has placed or preserved them for the purpose of keeping them joined to the property or forming part thereof on a permanent basis.*
- 7. Fertilisers destined for the cultivation of landed property, located in the land where it is to be used.*
- 8. Mines, quarries and dumps, while their matter remains joined to the source, and flowing or stagnant waters.*
- 9. Docks and constructions which, even if they float, are destined, as a result of their purpose and conditions, to remain in a fixed point of the river, lake or coast.*
- 10. Administrative concessions to perform public works, and easements and other rights in rem pertaining to immovable property."*

The above will be considered "body immovable property". By extension, it will also be considered Real Estates the rights or obligations attached to this immovable properties such as mortgages, purchase options, rights of accession, etc.

What are the most common forms of security granted over real estate and give the names in your language?

Mortgage: Hipoteca. It will also produce a prohibition of transfer of title.

Right of accession: Servidumbre.

Purchase option: Opción de compra.

Formalities/Registration requirements:

The Registration and Formalities in Spain, specially related to the Real Estates are extremely important.

That is the reason why Notaries and Property Registers are so important in the Spanish Legal System.

If a property is not inscribed in the register, we are not PUBLIC owners of the property. It is also very important the principle "prior in tempore, potior in iure" with its application: The first accessing to the Register, will have better right to the Property.

The access to the Property Register can only be acquired by a Public Deed signed by a Notary or a Court Resolution, which is also considered a Public document.

In case we want to access to the register through a foreign document, this document will need the apostille, if the country is member of The Hague Convention, or the legalization through the embassy of the Country where the document has been signed.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

By definition in the Spanish Civil Code, any property not mentioned in the art. 334 related to the immovable property. The Articles 335, 336 and 337 of the Spanish Civil Code is very clear and traditional:

"Article 335. Property capable of appropriation not included in the preceding chapter and, generally, all property which may be transported from one point to another without impairment of the immovable object to which it is joined shall be deemed to movable property.

Article 336. Income or pensions, whether life or hereditary annuities, attached to a person or family, provided that they do not encumber with a real lien an immovable object, positions subject to disposal, contracts relating to public services and certificates and securities representing mortgage loans shall also be considered movable property.

Article 337. Movable property shall be fungible or non-fungible. Property which cannot be properly used according to its nature without being consumed shall belong to the first species; other property shall belong to the second species."

In this sense, agricultural stock, trading stock, airplanes, vessels, etc... are tangible movable property.

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

Purchase option: Opción de compra in Spanish.

Pawn: Embargo in Spanish.

Retention of Title: Reserva de dominio in Spanish. It is not specifically regulated in the Spanish Civil Code, but very well known between traders and recognized by the Courts.

Specially important by volume of transactions in the purchase of cars, vessels or airplanes, which must be registered in order to have the right of using them. Therefore this Retention of Title will be inscribed in the Register, and even when the debt attached to this Retention of Title has been paid, we will need to formally cancel this Retention of Title. In other goods where the inscription is not compulsory, this Retention of Title will not be that effective.

Formalities/Registration requirements

The securities attached to the movable properties will not be very effective if it is not compulsory for this property to be inscribed in a Registry. In some cases the inscription will need to be done through a public document (specially in the corporate register); in other cases, like inscriptions related to cars, vessels or airplanes, a private document will be enough.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

There is not an explicit definition for the Intangible Movable Property in the Spanish Civil Code, despite that art. 336, defines “Income or pensions, whether life or hereditary annuities, attached to a person or family, provided that they do not encumber with a real lien an immovable object, positions subject to disposal, contracts relating to public services and certificates and securities representing mortgage loans shall also be considered movable property.”,

This article, in contrast to the art, 335, which defines the property that could be transported, gives us the idea of what could be considered the Intangible Movable Property. As examples, trademarks, patents, shares or business claims could be considered intangible movable property.

What are common forms of security granted over intangible movable property?

Like in the Tangible Movable Properties, could be considered securities granted over this kind of property the following ones:

Purchase option: Opción de compra in Spanish.

Pawn: Embargo in Spanish.

Retention of Title: Reserva de dominio in Spanish. It is not specifically regulated in the Spanish Civil Code, but very well known between traders and recognized by the Courts.

Formalities/Registration requirements

There are no different formalities nor registration requirements than in the other movable properties.

SECTION 2 - GUARANTEES: GARANTÍAS in Spanish

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**
- **Bank Guarantees**
- **Letters of Comfort**
- **Others:**

Yes [X] No []

Yes [X] No []

Yes [X] No []

Yes [X] No []

Article 1.823 of the Spanish Civil Code: Guaranty may be conventional, legal or judicial, gratuitous or for valuable consideration. It may also be created not only in favour of the principal debtor, but also in favour of another guarantor, with the latter's consent, if he should be unaware of it or even if he should be against it.

- *Benefit of Excussio: The guarantor may not be compelled to pay the creditor without first making excussion of all of the debtor's property.*
- *Pledge.*

Formalities/Requirements:

Guaranty cannot exist without a valid obligation.

Notwithstanding the foregoing, it may refer to an obligation whose nullity may be claimed pursuant

to a purely personal exception in favour of the obligor, such as the latter's minority of age.

A guaranty cannot be implied: it must be express and may not extend beyond what is expressly provided therein.

A simple or undefined guaranty shall comprise not only the principal obligation but also all ancillary obligations thereof, even legal expenses, understanding in respect of the latter that he shall

only be liable for those which may accrue after the guarantor has been demanded to pay.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

It can be a statement verbally expressed by the debtor, or a letter signed by the debtor before a Notary. It will be enforceable before the Court.

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

A Bill of Exchange is valid in Spain if it includes three personal elements: "Librador, Librado, Tomador", [drawer, drawee, and holder, respectively]. In some cases, however, there may only two

elements, namely, when the drawer and drawee hold the same position because the drawer makes himself the receiver of his own order or if the drawer makes himself receiver of his own order. The essential elements of a BX are described in the ministerial decree of June 30, 1999. The following are compulsory elements:

Expression “Letra de Cambio” [BX] or “PAGARÉ” [PN] listed in the same font and language used in the rest of the document.

Cheque

Yes [X] No []

Letters of Credit

Yes [X] No []

If yes, what are the formalities?

It is not used, and therefore there is not a specific regulation. Despite that, same formalities than the other securities will be applicable.

Josep Ma. Solsona

BAA Advocats Associats

Pau Claris, 162, 2º, 4a

Barcelona E-08037, Spain

jsolsona@baa-advocats.com

SWITZERLAND

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

- 1. parcels of land and the buildings thereon;*
- 2. distinct and permanent rights recorded in the land register;*
- 3. mines;*
- 4. co-ownership shares in immovable property.*

What are the most common forms of security granted over real estate and give the names in your language?

Mortgage (Hypothek), building contractor's charge (Bauhandwerkerpfandrecht)

Formalities/Registration requirements:

Real security may be created on immovable property in the form of a mortgage or a mortgage certificate.

Real security must be recorded in the land register.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

(e.g. Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships)

Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships

What are common forms of security granted over tangible movable property?

Purchase contracts, contracts for work labour, retention of title, special lien

Please include Retention of Title (if applicable – simple/extended)

Formalities/Registration requirements

Assignment possession, registration in the retention of title register (only for retention of title), possession must already be assigned to the creditor (only for special lien)

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

Intellectual property rights such as trademarks and patents, shares, bonds, business, claims

What are common forms of security granted over intangible movable property?

Purchase contracts, contracts for work labour, tenancy contracts

Formalities/Registration requirements

None.

Written contract (if a claim is the security)

SECTION 2 - GUARANTEES: Garantien

Are guarantees used in your jurisdiction?

Yes [X] No []

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees**
- **Personal Guarantees**
- **Bank Guarantees**
- **Letters of Comfort**
- **Others**

Yes [X] No []

Yes [X] No []

Yes [X] No []

Yes [X] No []

Formalities/Requirements:

None.

Written form with the maximum amount of the guarantee indicated. In addition public certification (only for natural person and if the guarantee is higher than CHF 2'000.00).

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt

Yes [X] No []

If yes, what are the formalities?

public certification

Bill of Exchange

Yes [X] No []

If yes, what are the formalities?

Written form containing:

- 1. the designation 'bill of exchange' in the text of the instrument and in the language in which it is issued;*
- 2. the unconditional instruction to pay a certain sum of money;*
- 3. the name of the person who is to pay (drawee);*
- 4. the due date;*
- 5. the bill domicile;*
- 6. the name of the person to whom or to whose order payment is to be made;*
- 7. the date and the place of issue;*
- 8. the drawer's signature.*

Cheque

Yes [X] No []

If yes, what are the formalities?*Written form containing:*

- 1. the designation 'cheque' in the text of the instrument and in the language in which it is issued;*
- 2. the unconditional instruction to pay a certain sum of money;*
- 3. the name of the person who is to pay (drawee);*
- 4. the place of payment;*
- 5. the date and the place of issue;*
- 6. the drawer's signature.*

Letters of Credit

Yes [X] No []

If yes, what are the formalities?*None.***Aurelia Schmid**

Müller & Paparis Rechtsanwälte
Bahnhofstraße 44, Postfach 2622, 8022 Zurich, Switzerland
aschmid@muellerpapis.ch

TURKEY

SECTION 1 - FORMS OF SECURITY OVER ASSETS:

Real Estate

What is considered real estate in your jurisdiction?

According to Turkish Law System, the subjects of the real estate ownership are the land, the several and imprescriptible rights which are registered to the land registry and single space registered to the common hold registry.

The general rule to achieve the ownership of a real estate is registration. Under some condition, for instance with a court decision, the ownership may be achieved before the registration.

What are the most common forms of security granted over real estate and give the names in your language?

- Mortgage (in Turkish: “ipotek”)
- Purchase Option (in Turkish: “satın alma opsiyonu” or “şufa hakkı”)
- Mortgage certificate (in Turkish: “ipotekli borç senedi”)
- Encumbrance on Real Estate (in Turkish: “taşınmaz yükü”)
- Preliminary Contract for Sale of Real Estate (in Turkish: “taşınmaz/gayrimenkul satış vaadi sözleşmesi”)
- Annuity Charge Bond (in Turkish: “irat senedi”)

Formalities/Registration requirements:

The security over real estate is established by the registration to the land registry and the contract which is constituting the related security has to be prepared with official form/ in notarized document form.

The acquisition of the good faith third person based on trusting to the registry on the land registry is protected by law.

Tangible movable property

What is considered tangible movable property in your jurisdiction?

The movable is the material and movable things by their natures and natural forces which are convenient to obtain and which are not included in the scope of real estate.

(eg Agricultural stock, trading stock, goods, plant and machinery, vessels such as airplanes and ships but animals are not depend on the regulations for movables.)

What are common forms of security granted over tangible movable property?

Please include Retention of Title (if applicable – simple/extended)

- Pledge (in Turkish: “rehin”)
- Pawn (in Turkish: “rehin mukabili ikraz”)
- Commercial Enterprise Pledge (in Turkish: “ticari işletme rehni”)
- Escrow (in Turkish: “emanet”)

Formalities/Registration requirements

Except the situation stated in law, the movables may be pledged in case of the transfer of possession to the creditor. Another charter which the Turkish Law System is looking for is that the related pledge agreement has to be made in written.

The general rule about the pledge on movable is regulating that the pledge of movable is not requiring a registration to the registry except for some of the movables as animals and commercial enterprise pledge.

Intangible movable property

What is considered intangible movable property in your jurisdiction?

(e.g. intellectual property rights such as trademarks and patents, shares, bonds, business, claims, others)

According to Turkish Law, intangible properties are divided to intellectual and industrial properties. Intellectual properties are the rights borne from artworks of literature, art, music, architecture exc. Industrial properties are the rights borne from the fields that considers industry and technology such as trademarks, patents, models, know-hows, inventions exc.

What are common forms of security granted over intangible movable property?

- Pledge (in Turkish: “rehin”)
- Commercial Enterprise Pledge (in Turkish: “ticari işletme rehni”)

Formalities/Registration requirements

According to Turkish Law, it is possible for parties to put pledge on their industrial properties. However, parties must register the commercial enterprise pledge in the Registry of Commerce. In commercial enterprise pledges, registration is foundational. In other words, right of pledge arises from registration.

It is possible to put pledge in patents, licences, trademarks exc. However, these agreements must be written. In addition to it, pledges do not require registration. Nevertheless, these pledge agreements may be registered to Turkish Patent Institute to provide a protection of pledge against third parties.

SECTION 2 - GUARANTEES: in Turkish “garanti”

Are guarantees used in your jurisdiction?

Yes ☒ No ☐

What types of guarantees are used in your jurisdiction?

- **First/On Demand Guarantees** Yes ☒ No ☐
- **Personal Guarantees** Yes ☒ No ☐
- **Bank Guarantees** (in Turkish: “banka teminat mektubu”) Yes ☒ No ☐
- **Letters of Comfort** Yes ☐ No ☒
- **Others:**
 - *Guarantee Contract (in Turkish “garanti sözleşmesi/başkasının fiilini taahhüt”), which is similar to a first/on demand guarantees or personal guarantees but it is different from them as the obligation of the guarantor set out in the guarantee contract is independent*

of the obligation for which it has promised to answer; the guarantor may not enforce the same objections that can be made by the debtor against the creditor.

Formalities/Requirements:

The guarantees (including guarantee contract) shall to be prepared in written. It is the condition for the validity.

SECTION 3 – OTHER FORMS OF SECURITY

Are the following forms of security used in your jurisdiction:

Notarial statement of debt *(in Turkish: “noter borç senedi”)*

Yes [X] No []

If yes, what are the formalities?

The notarial statement of debt has to be prepared in written and has to be signed in notary.

Bill of Exchange *(in Turkish: “kambyo senedi”)*

Yes [X] No []

If yes, what are the formalities?

In Turkey tree type of bill of exchange is regulated; bill of exchange (in Turkish: “Poliçe”), bond or the promissory note (in Turkish: “bono”) and check. In this part we will explain the bill of exchange and the bond/promissory note as the check is demanded to be answered in next question.

The bill of exchange is a bill of debt which is issued to the order of the creditor and which permits to the creditor to ask for the payment by submitting the bill. The bill of exchange is a trio relation (issuer- drawee- beneficiary).

The bill of exchange contains,

- 1. The “bill of exchange” clause in Turkish or in the same meaning of the language that is prepared,*
- 2. Unconditionally transfer clause in respect of to be paid a determined amount,*
- 3. The name of the respondent/the payer,*
- 4. The maturity,*
- 5. The Domicile of a bill,*
- 6. The name of the person that the payment will be done to the order of him,*
- 7. The date and place of issuance,*
- 8. The signature of the issuer.*

The bond or promissory note is a bill in which the issuer makes a promise about to pay a determined amount to the beneficiary or to the order of him. The drawee who will pay the bill of exchange is getting involved to the bill of exchange relation in case of he accepted but as the bond or the promissory note is a promise to pay, the issuer of the bond or the promissory note is in the position of the essential debtor. The bond or the promissory note is a dual relation (the issuer and the beneficiary).

The bond or promissory note contains,

The “bond or promissory note” clause in Turkish or in the same meaning of the language that is prepared,

- 1. Unconditionally transfer clause in respect of to be paid a determined amount,*
- 2. The name of the respondent/the payer,*
- 3. The maturity,*

4. *The Domicile of a bill,*
5. *The name of the person that the payment will be done to the order of him,*
6. *The date and place of issuance,*
7. *The signature of the issuer.*

Cheque (in Turkish: “çek”)

Yes [X] No []

The cheque is a prevalent pecuniary mean in Turkey. In the cheque, the issuer authorises the drawee to pay a determined amount to the beneficiary and authorises the beneficiary to collect.

Letters of Credit (in Turkish: “akreditif”)

Yes [X] No []

If yes, what are the formalities?

The letter of credit is a writing which is sent by the banks and financial institutions to their branch or to their correspondents on the purpose of opening a credit account in relation to commercial affairs for the benefit of their client. In Turkey the letter of credit method is used for foreign trade operations.

The letter of credit contains,

1. *The name, the address of the correspondent bank and the date of issuance of the letter,*
2. *The name of the client and name of the firm to which the payment will be performed,*
3. *The sort of the letter of credit,*
4. *The amount of the letter of credit and is the selling operation is done with FOB or EIF,*
5. *The insurance conditions,*
6. *The type and the amount of the good,*
7. *Landing and discharge ports of the good,*
8. *If the partial shipment is possible,*
9. *The maturity of the letter of credit and shipment,*
10. *How the letter of credit will be used.*

Cengiz Söylemezoglu

UnitedKS Law Firm

Lale Sok. No:15 Levent, Istanbul 34330, Turkey

cengiz@unitedks.com

