

**ISSUES FOR NON-US COLLECTION AGENCIES**

**AND LAWYERS TO ANSWER:**

- 1. Are there any problems with a US claimant pursuing a claim against a debtor in your country?**

No specific problems.

- 2. The outstanding invoices are in dollars. Can the claim made in court proceedings be in dollars?**

Yes - the claim may be filed in USD. A judgement is also issued for amount in USD. Collection through bailiff is done in PLN. Therefore the USD amount is exchanged to PLN on the day the bailiff collection starts. Due to currency exchange fluctuation the final collected amount after conversion to USD may differ from the USD amount on a judgement.

- 3. If there is no contractual right to interest, can interest nonetheless be claimed and if so at what rate?**

Depends on applicable law. If Polish law is applicable – yes. If foreign law is applicable – depends on foreign law. In a typical international file we need to apply foreign law to calculate interest rate.

- 4. Can agency lawyers in your jurisdiction work upon a contingency fee basis and if so, typically what are the rates?**

According to bar rules, contingency fee is allowed but there must be some fix component. There are no typical rates.

- 5. How do court costs compare with the US?**

Court costs are very different to US standards. First, there is a separate fee for filing the claim to the court. In a typical claim it amounts 5% of claim value but not more than approx. USD 30k. In files, which qualify for simplified payment order proceeding, the court fee is 1.25% of the claim. Filing fee is paid by the losing party, provided that bailiff collection is successful.

On top of filing fees, the losing party covers attorney costs of the winning party, however the amount may be lower than true costs incurred by the party. The court decides on amount of costs to be reimbursed by the losing party.

- 6. What language would the court proceedings be in and do documents have to be translated?**

Polish. All documents need to be sworn translated to Polish.

**7. Will witnesses be required to visit your country for depositions in the trial?**

Not in a typical money claim file, however it may be requested or necessary in some situations. In a typical commercial case the court relies on written documents more than on witness accounts.

Additionally, in files which qualify for a simplified payment order proceeding, the court issues a verdict without depositions and trial.

**8. What are the rules regarding enforcement of a US judgment in your country?**

Judgements are automatically enforceable in Poland. Apart from the judgement itself, it is required to obtain an Apostille Clause at the Secretary of State Office. Before filing the judgement to the bailiff for collection, we need to obtain a so called "execution clause" from Polish court. It is a technical proceeding and the defendant is not notified about it.

**9. What personal liability is there on the offices of a corporation that has issued cheques which have not been honoured?**

Apart from civil liability, this is considered as criminal offence (fraud).

**10. What liability do officers of the corporation have if the corporation goes into bankruptcy?**

The aim of bankruptcy is to avoid personal liability of officers of corporation. If the motion for opening of bankruptcy is filed within deadline, the officers are generally not liable for debts of company.

**11. Do agencies and lawyers operate a trust or client account for monies recovered from a debtor?**

Most lawyers operate "a client account", which is however nothing similar to US standards. Usually lawyers have one account for all payments for all clients (no separate client accounts). There may have accounts in different currencies, typically: PLN, EUR and USD.

The lawyer is not restricted in access to these accounts. These accounts are not obligatory. There are run for practical reasons, so that legal fees are not mixed with client's money.

**12. Is this requirement mandatory or voluntary?**

Not mandatory.

**13. What fidelity or malpractice insurance do you have?**

Obligatory insurance at bar association. Additional (not mandatory) insurance to extend liability coverage.

## **UKRAINE**

### **ISSUES FOR NON-US COLLECTION AGENCIES**

#### **AND LAWYERS TO ANSWER:**

1. Are there any problems with a US claimant pursuing a claim against a debtor in your country?

**NO.**

2. The outstanding invoices are in dollars. Can the claim made in court proceedings be in dollars?

**YES.**

3. If there is no contractual right to interest, can interest nonetheless be claimed and if so at what rate?

**YES. 3% of annual interest.**

4. Can agency lawyers in your jurisdiction work upon a contingency fee basis and if so, typically what are the rates?

**Only licensed attorneys are allowed to represent claimant in the court. They usually work on fixed fee, sometimes fixed fee + contingency fee.**

5. How do court costs compare with the US?

6. What language would the court proceedings be in and do documents have to be translated?

**Ukrainian. Documents should be translated.**

7. Will witnesses be required to visit your country for depositions in the trial?

**NO.**

8. What are the rules regarding enforcement of a US judgment in your country?

**It should be recognized by Ukrainian court. Then enforcement according to general rules.**

9. What personal liability is there on the offices of a corporation that has issued cheques which have not been honoured?

**For 10 years of practice we have never seen or heard about use of cheques. It is not used in Ukraine as payment instrument.**

10. What liability do officers of the corporation have if the corporation goes into bankruptcy?

Almost none unless it is proved bankruptcy is deliberate act of the officer. Then criminal liability applies.

11. Do agencies and lawyers operate a trust or client account for monies recovered from a debtor?

No.

12. Is this requirement mandatory or voluntary?

N/A

13. What fidelity or malpractice insurance do you have?

None.