



AGENDA FOR
IMF LEGAL DEPARTMENT
WORKSHOP



LEGAL
DEPARTMENT

“MAKING MORTGAGES WORK”

March 8-9, 2016, Joint Vienna Institute, Vienna (Austria)

March 7, 2016

7:00 p.m. Welcome reception (*Palmenhaus*)

March 8, 2016

8:30 – 9 am Registration and Welcome from JVI

9:00 – 9:15 am Opening remarks

9:15 – 9:30 am Macro-economic importance of effective and efficient mortgage enforcement

Session 1: Challenges to Effective Enforcement

9:30-11:00 a.m. *Effective enforcement of mortgages plays an important role in economies to ensure credit discipline and enable debt recovery for creditors. In normal economic times, countries face challenges to facilitate the enforcement of mortgages within a reasonable time with adequate recovery values. We will discuss these techniques later. In the crisis context, mortgage enforcement continues to play an important role to minimize moral hazard but many other considerations start to emerge, such as social implications (social housing); market concerns (“mass foreclosure”); or capacity constraints (courts, professionals). The discussion will encompass these key challenges countries face in effective enforcement of mortgages and discussants will share their experiences in addressing these challenges. The discussion will include quantifying and diagnosing mortgage enforcement in the macro context. The discussion will also touch upon recent EU legislation in this area. Finally, this session will distinguish between residential and commercial mortgage enforcement whether different rules should govern.*

11:00 -11:15 a.m. Coffee Break

Session 2: Conditions for initiation of foreclosure procedure.

11:15-12:45 p.m. *This session will focus on the conditions for the initiation of foreclosure procedures. The substantive and procedural requirements in both judicial and extrajudicial (e.g., notarial deed or deed of trust) enforcement will be discussed. Initial requirements for the mortgage title, registration of the mortgage, and evidence of the amount owed under the mortgage will be considered. Measures of non-payment sufficient to trigger foreclosure, notice requirements, both timing and content, and the officials or agencies involved will be explored. Additionally, any rights mortgage holders have to cure the default, requirements for loss mitigation measures, and as the consequences for a creditor's failure to follow procedures will be discussed.*

12:45- 2:30 p.m. Lunch (to be provided at JVI)

Session 3: Efficient Sale of Real Estate

2:00-5:00 p.m. *This session will consider two methods to liquidate secured property. The first method is the auction process. It will be covered in Part I of this session. The auction process is the universal default approach for foreclosure procedures. There are significant differences between countries on auction procedures as well as in efficiency (speed, cost and recovery). The objective of the session is to walk through the stepping stones of the auction process, from start until end, look at typical auction modalities existing in various countries, and try and come up with some general conclusions on what makes one system work better than the other (all in recognizing specific country traditions). The second method considers other ways to liquidate secured property. This is covered by Part II of this session. It will notably explore French procedure (and also changes in some other countries, such as the Netherlands) which permits for an underhand sale within the foreclosure process. Other instruments are also explored, notably sale through fiduciary contracts or Powers of Attorney.*

2:00-3:30 p.m. **Part I:** Core principles

3:30-3:45 p.m. Coffee Break

3:45 – 5:00 p.m. **Part II:** Alternatives to Auctions

7:00 – 9:00 pm Official Dinner (*Beim Novak*)

March 9, 2016***Session 4: Processes and Safeguards***

9:00-10:30 a.m. *This session will focus on the procedural mechanisms to enforce mortgages. Swift enforcement regimes have important effects on financial stability and access to credit. Across Europe, there is a wide variety of procedures for mortgage enforcement, ranging from out-of-court procedures with different degrees of formality, to summary and ordinary in-court procedures. The session will discuss the advantages and feasibility of out-of-court enforcement, and the challenges in the design of effective in-court procedures, which should avoid the abuse of delaying tactics, while providing safeguards against creditor abuse. In this regard, the possibility of splitting the enforcement regime between commercial mortgages and consumer mortgages will be discussed.*

10:30-10:45 a.m. Coffee Break

Session 5: Professionals Involved in Mortgage Enforcement

10:45- 12:15 p.m. *This session will focus on the role of professionals involved in mortgage enforcement such as notary publics, bailiffs, independent property appraisers, auctioneers, and others. While these professionals may play different roles in different jurisdictions, their operation in an efficient and cost effective manner is important for a smooth enforcement. The session will discuss, inter alia, at what stages of the mortgage enforcement process these professionals are involved, how they are organized (public vs. private vs. hybrid regulation), cost/fee structure, applicable ethical norms and liability issues. Participants will provide examples of how these professionals are involved in mortgage enforcement in their jurisdictions, identify challenges and share potential solutions.*

12:30-12:40 p.m. Closing Remarks