

Regional Secured Transactions Assessment – Belarus

Non-possessory charge over movable property

The following table relates to non-possessory security over movable assets and rights. The survey is best understood if read in conjunction with the EBRD Core Principles, which specify the basic criteria for a modern secured transactions law. The Explanatory Notes describe the methodological approach to the survey.

A	Non-possessory charge - Scope	Grading
1.	Can anyone grant a charge?	1
2.	Can anyone take a charge?	3
3.	Can the charge cover all types of tangible movable property?	3
4.	Can the property be described in general terms?	1
5.	Can the charge be established over future property?	3
6.	Can the charge be established over changing pool of assets?	3
7.	Can the charge be established over going concern (enterprise) or all present and future assets of the chargor?	3
8.	Can debts of any type be secured by charge?	3
9.	Can parties agree on the rights of the chargor over charged assets?	3
10.	Is the good faith charge creditor protected from subsequent claims which may adversely affect the charge?	0
11.	Does a third party acquire property free from security in the ordinary course of business?	3
12.	Are subsequent charges permitted over same property?	3
13.	Can the charge creditor dispose of its priority position?	0
14.	In case of transfer of secured claim, does charge follow automatically?	3

B	Non-possessory charge - Creation / Registration	Grading
15.	Are charges registered?	1
16.	Can a third party determine whether property is encumbered?	1
17.	Is the data centralised? Is the data from the register available on line?	0
18.	Is data in the register indexed against the name of the chargor?	0

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C	Non-possessory charge -Enforcement	Grading
19.	Are the manners of starting enforcement and the enforcement procedure clearly established?	3
20.	Does commencement of enforcement have to be publicised?	0
21.	Is out of court realisation of assets permitted?	3
22.	Can the charge creditor decide on the way the realisation will be done?	0
23.	Can the charge creditor exercise control over the realisation process?	3
24.	Is enforcement rapid?	0
25.	Is the purchaser protected?	0
26.	Is charge creditor protected against the chargor's obstruction?	0
27.	Is taking possession of charged asset simple and quick?	0
28.	Can the charge creditor actively protect the charged assets?	3
29.	Is the charge creditor right protected in case of third party initiated enforcement against the asset?	3

Remarks

A1	Only business entities (enterprise mortgage).
A4	Only enterprise mortgage.
B15	There is no general register of non-possessory charges. Charges can be registered only over assets subject to registration in respective title registries.
B16	Only for assets subject to registration.