

Regional Secured Transactions Assessment – Bulgaria

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 – General	Grading
1.	Can anyone grant a charge?	2
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?	3
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?	2

B	Non-possessory charge – Creation / Registration	Grading
15.	Are charges registered?	3
16.	Can a third party determine whether property is encumbered?	3
17.	Is the data centralised? Is the data from the register available on line?	2
18.	Is data in the register indexed against the name of the chargor?	3

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C	Non-possessory charge –Enforcement	Grading
19.	Are the manners of starting enforcement and the enforcement procedure clearly established?	2
20.	Does commencement of enforcement have to be publicised?	3
21.	Is out of court realisation of assets permitted?	3
22.	Can the charge creditor decide on the way the realisation will take place?	3
23.	Can the charge creditor exercise control over the realisation process?	3
24.	Is enforcement rapid?	3
25.	Is the purchaser protected?	3
26.	Is the charge creditor protected against chargor's obstruction?	3
27.	Is taking possession of charged asset simple and quick?	3
28.	Can the charge creditor actively protect the charged assets?	?
29.	Is the charge creditor right protected in case of third party initiated enforcement against the asset?	2

A1	The law provides for an exhaustive enumeration of the persons that can grant charge, which include merchants, farmers, artisans, members of professions and landlords letting rooms in their own home. Although this authorisation is quite wide it is not a general one and natural persons outside of commerce and given exceptions are precluded from using the system.
A14	Re-registration is necessary but not seen as a new charge.
B17	The data is centralised, but not available online.
C19	The enforcement procedure is regulated both in the Registered Charges Act and in the Code of Civil Procedure, which makes it sometimes difficult to follow.
C29	The priority ranking is observed, however, it is unclear if the charge creditor can take over the leading role in case of enforcement procedure initiated by a third party.