

## Regional Secured Transactions Assessment – Estonia

### 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.

<b>A</b>	<b>Non-possessory charge - General</b>	<b>Grading</b>
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?	1
4.	Can the property be described in general terms?	0
5.	Can the charge be established over future property?	0
6.	Can the charge be established over changing pool of assets?	1
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?	0
9.	Can parties agree on the rights of the chargor over charged assets?	?
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?	1
12.	Are subsequent charges permitted over same property?	3
13.	Can the charge creditor dispose of its priority position?	1
14.	In case of transfer of secured claim, does charge follow automatically?	2

<b>B</b>	<b>Non-possessory charge - Creation / Registration</b>	<b>Grading</b>
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?	1
18.	Is data in the register indexed against the name of the chargor?	3

## Regional Secured Transactions Assessment – Estonia

<b>C</b>	<b>Non-possessory charge -Enforcement</b>	<b>Grading</b>
19.	Are the manners of starting enforcement and the enforcement procedure clearly established?	<b>3</b>
20.	Does commencement of enforcement have to be publicised?	<b>1</b>
21.	Is out of court realisation of assets permitted?	<b>0</b>
22.	Can the charge creditor decide on the way the realisation will be done?	<b>0</b>
23.	Can the charge creditor exercise control over the realisation process?	<b>0</b>
24.	Is enforcement rapid?	<b>?</b>
25.	Is the purchaser protected?	<b>3</b>
26.	Is charge creditor protected against the chargor's obstruction?	<b>0</b>
27.	Is taking possession of charged asset simple and quick?	<b>?</b>
28.	Can the charge creditor actively protect the charged assets?	<b>0</b>
29.	Is the charge creditor right protected in case of third party initiated enforcement against the asset?	<b>3</b>

## Remarks

A1	The concept of non-possessory charge is available only in case of charge of enterprise which can be only created by a shareholder.
A3	Only under enterprise charge.
A6	Only in the context of enterprise charge.
A11	Only in the case of charge over enterprise.
A13	Only in the case of charge over enterprise.
A14	Re-registration is necessary but not seen as a new charge.
B15	Only in the case of charge over enterprise. (Excluding charges registered in title registries).
B16	Only in the case of charge over enterprise. (Excluding charges registered in title registries).
B17	Only in the case of charge over enterprise. (Excluding charges registered in title registries).
C20	The pledgee is required to notify the pledgor of the sale of the pledged asset but the commencement of the enforcement does not have to be publicised.