

Federal statute on debt enforcement and bankruptcy

Bundesgesetz über Schuldbetreibung und Konkurs (SchKG)

Loi fédérale sur la poursuite pour dettes et la faillite (LP)

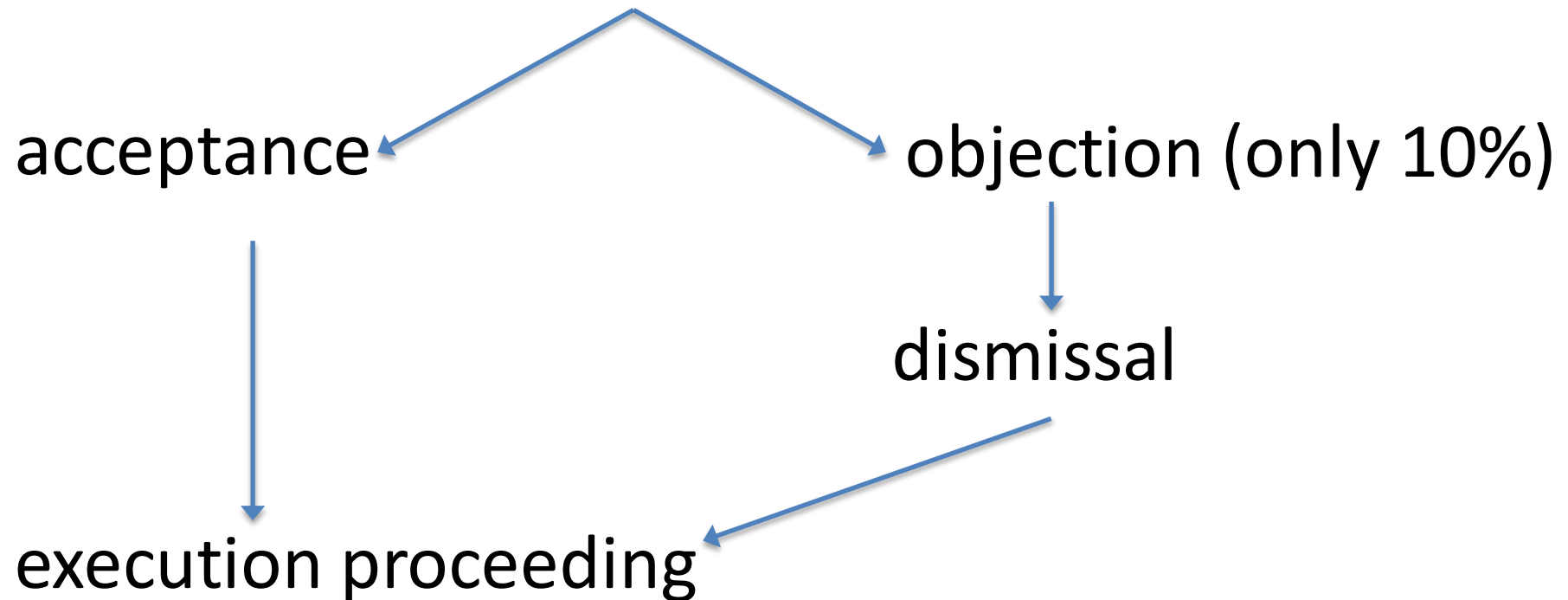
Legge federale sulla esecuzione e sul fallimento (LEF)

Key content

- debt collection by seizure of assets
- bankruptcy proceedings (\approx US Chapter 7)
- proceedings to reach a debt restructuring agreement (\approx US Chapter 11)

Introductory proceeding: Overview

- debt collection request
- payment summons (2.8m served in 2014)



Introductory proceeding: dismiss debtor's objection

- file a lawsuit (CPC proceeding)
- request *final* dismissal of objection (summary proceeding, IC)
- request *provisional* dismissal of objection (summary proceeding, IC)

Execution proceedings: Overview

private individual



seizure of assets

vs. legal entity /
partnership/
sole proprietorship



bankruptcy

Execution proceedings: debt collection by seizure of assets

- debt collection office seizes and sells assets
- first-come first-served
- wage garnishment
- minimum income needed to exist

Execution proceedings:

Minimum income needed to exist

For food, clothing, personal hygiene, healthcare, home maintenance, cultural activities, energy:

1. Unmarried

- living together with an adult: CHF 1,100
- living alone: CHF 1,200

2. Single parent

- living together with an adult: CHF 1,250
- living alone: CHF 1,350

3. Married couple: CHF 1,700

4. Addition per child

- up to the age of 10: CHF 400
- age 10 and above: CHF 600

Execution proceedings: Minimum income needed to exist

- plus rent
- plus miscellaneous costs (e.g. train fares)
- minus spouse's income
- etc.

Execution proceedings: Overview

private individual



seizure of assets

vs. legal entity /
partnership/
sole proprietorship



bankruptcy

Execution proceedings: Bankruptcy

- corporate entity, sole proprietorship, partnership
- court declares bankruptcy; automatic stay
- liquidation
- certificate of unpaid debts

Execution proceedings: Declaration of insolvency

- every debtor can declare him/herself insolvent
 - + no more payment summons
 - + no more wage garnishment
 - certificate of unpaid debts
 - no discharge
 - costs

International procedural law

- Lugano-Convention:
 - Signatories: Denmark, European Union, Iceland, Norway, Switzerland
 - Judgments in civil or commercial matters
 - If enforceable in the state where the judgment was given, it is also enforceable in Switzerland

International procedural law

- Federal Code on Private International Law
 - Ruling court had jurisdiction according to Swiss law
 - Decision is final
 - Procedural guarantees not fundamentally violated
 - ordre public

International procedural law

- Example 1:
 - German judgment: defendant has to pay € 300,000
 - Enforceable according to German law
 - Appeal pending

- ➔ Lugano-Convention

International procedural law

- debt collection request
- file motion to declare judgment enforceable
- freezing order (art 271 IC)

International procedural law

- Example 2:
 - US judgment: worldwide prohibition of sale, punitive damages (\$ 200m)
 - Venue based on “doing business”

- ➔ Federal Code on Private International Law