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Are there any intervening creditors involved in garnishment?

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Summary

Considering the way of regulating the procedure of intervention of other creditors in the forced execution phase, in the executive practice the question was raised if this is also incidental in the matter of garnishment.

This article, through the arguments it contains, aims to answer this question and, at the same time, to explain the hypotheses of the occurrence of competing garnishments.

Keywords: *intervention, garnishment, intervention term, competing garnishments, connection, distribution procedure.*

1. Some considerations regarding the intervention of other creditors in the forced execution phase

The institution of the intervention of third party creditors in the forced execution phase is regulated by the new Code of Civil Procedure in the art. 689 - 695, distinct from the trial phase.

The general principle underlying this regulation is that of relativity, according to which legal situations created between certain subjects of law cannnot produce their effects or can only affect those subjects (*res inter alias acta neque nocere neque prodesse potest*[1]). For the forced execution phase, however, the regulation aims to capitalize on the rights of the intervening creditors in relation to the debtor executed by the pursuing creditor.

According to art. 643 para. (1) point 3 C. of Civil Procedure, the intervening creditors are part of the category of participants in the forced execution.

However, the possibility of participating in the pending enforcement proceedings between other parties cannot be unconditionally recognized, but must

[1] E. Cotoi, *Incidents in the Forced Execution Procedure*, Universul Juridic Publishing House, Bucharest 2009, p. 46; E. Cotoi, *The Intervention of Other Creditors within the Forced Execution Procedure*, RRES no. 1/2009, pages 13-26.

meet certain substantive and form[2] conditions, which state that, unlike the pursuing creditor who initiated the enforcement, the intervening creditor is not obliged, in all cases, to justify the existence of an enforceable title against the debtor, but he can also substantiate his intervention by applying insurance measures on the debtor's assets, provided that the disposition of such measures presupposes as a *sine qua non* condition, the non-existence of an enforceable title.

An essential requirement for the incidence of the institution of intervention is the existence of a forced execution initiated against a common debtor by other creditors. Only in the context of an ongoing enforcement procedure, the third party may promote a request for intervention. If he addresses the bailiff independently with a request for enforcement, he will have the quality of pursuing creditor.

2. General aspects regarding the garnishment procedure

The garnishment is that form of indirect forced execution which capitalizes on sums of money, securities or other intangible movable traceable property owed to the debtor pursued by a third party, the creditor being conditionally and provisionally subrogated to the latter's rights[33].

The garnishment is of a particular practical importance, being more and more frequently encountered in the execution reports, due to the advantages it presents, especially due to the fact that it is a flexible and fast procedure.

During the garnishment, the creditor's risk is much lower, because, in terms of the effects of the garnishment's establishment, the art. 783-784 C. of Civil Procedure stipulate that, from the moment of communicating the address for setting up the garnishment to the garnishee, all the sums and seized goods are unavailable. From the moment of unavailability until the full payment of the obligations provided in the executory title, including during the period of suspension of the forced pursuit by garnishment, the garnishee third party will not make any other payment or other operation that could diminish the seized goods, unless otherwise provided by law. Therefore, the main effect of the garnishment is to make unavailable the sums of money, securities or other

[2] For a detailed analysis of the conditions of participation of the intervening creditors at the execution procedure, see E. Oprina, I. Garbulet, *Theoretical and Practical Treaty of Forced Execution*, vol. I. *General Theory and Execution Procedures*, Universul Juridic Publishing House, Bucharest, 2013, pages 89-97.

[3] For a detailed research of the institution, see T. Pop, *The Capitalization of Claims by Garnishment*, Stiintifica Publishing House, Bucharest, 1942; I. Rebeca, *Forced Execution by Garnishment*, Hamangiu Publishing House, Bucharest 2007; R. Stanciu, *Validation of Garnishment. Judicial Practices*, Hamangiu Publishing House, 2011; E. Oprina, I. Garbulet, *Theoretical and Practical Treaty on Forced Execution*, vol. I. *General Theory and Execution Procedures*, Universul Juridic Publishing House, Bucharest, 2013, pages 714-765.

embedded movable traceable property owed to the debtor or held in his name by a third person or which the latter will owe in the future, based on some existing legal relations.

After the garnishment has been established, the garnishee is liable for any payments made by him against the disposals ordered by the bailiff. Therefore, such a payment is not opposable to the garnishing creditor, for which he will be able to obtain the obligation of the third party.

When amounts with successive maturities are garnished, the unavailability extends not only to the due amounts, but also to those outstanding in the future [art. 783 para. (2) C. of Civil Procedure]. Also, the unavailability extends to the civil fruits of the garnished claim, as well as to any other accessories born even after the establishment of the garnishment [art. 783 para. (3) C. of Civil Procedure].

An extremely important provision regarding the effect of unavailability is provided by the art. 783 para. (4) C. of Civil procedure. Thus, according to this text of law, due to the effect of unavailability, the payment or assignment of the garnished claim will not be opposable to the garnishing creditor. Also, the acts of disposition made after the establishment of the garnishment by the garnishee debtor on the garnished goods cannot be opposed to the garnishing creditor.

3. Are there any intervening creditors involved in the garnishment proceedings?

In order to answer this question, it is necessary to observe the entire regulation of the institution of the intervention of third party creditors in the forced execution phase, as well as of the institution of garnishment.

In the following we will present the arguments that would justify offering a negative answer to the issue under discussion accompanied by counter-arguments that plead for a contrary solution. Thus :

- art. 690 C. of Civil Procedure establishes that the request for intervention may be made, unless the law provides otherwise, until the date set by the executor for the capitalization, in any of the ways provided by law or agreed by the parties, of the movable or immovable property pursued.

Therefore, in relation to the deadline for formulating the request for intervention, compared to the wording of the aforementioned text, the question could be raised whether this intervention procedure is admissible also in the manner of the garnishment, given that the latter does not imply the establishment by the bailiff of a date for the capitalization of the traceable goods. It would seem that the phrase used by the legislator *("the date set by the executor for the capitalization, in any of the ways provided by law or agreed by the parties, of the movable or immovable property pursued"*) denotes his intention to cut the garnishment from the sphere of application of the institution of intervention.

Contrary to this solution, we consider that the term for formulating the requests for intervention does not have the nature of a legal term, but is a term fixed by the bailiff, whose non-compliance attracts the sanction provided by art. 695 C. of Civil Procedure.

Therefore, it is necessary to establish the deadline by which this intervention in the matter of garnishment can take place. Thus, if in the manner of pursuit of movable or immovable property, the term of capitalization of the goods represents the start of the sale stage, after the previous measure of seizure remained final, in the manner of garnishment, this transposed term can be determined only from the date from which the debtor can no longer freely dispose of the garnished goods or amounts.

The expression "capitalization of the pursued goods" marks that moment in the execution procedure from which the bailiff applies the concrete legal measures for the final removal from the debtor's patrimony of the goods subject to forced pursuit. So, properly applying these considerations in the matter of garnishment, it is noted that, compared to the specifics of the procedure, by making unavailable the goods and sums of money by the garnishee, the debtor can no longer dispose of those goods, which is equivalent to capitalization of goods.

Therefore, considering that any legal provision must be interpreted in the sense of producing legal effects and in relation to the specifics of this procedure, we consider that, in this case, the third party creditors may intervene in the enforcement procedure carried out by way of garnishment until the communication of the official letter containing the establishment of the garnishment, a date from which all sums and garnished goods are made unavailable, according to the art. 783 C. of Civil procedure. Thus, from the unavailability until the full payment of the obligations provided in the executory title, including during the suspension of the forced pursuit by garnishment, the garnishee will not make any other payment or other operation that could diminish the seized goods, unless otherwise provided by law.

- art. 691 para. (3) second thesis C. of Civil Procedure provides that, until the intervention request is resolved, the court may suspend the release or distribution of amounts obtained from the capitalization of the debtor's assets. In connection with this argument, it is alleged that the legislator used the expression "capitalization of the debtor's assets", which is a restricted expression and impossible to reconcile with the matter of garnishment, and, if he wanted to make this institution admissible also in case of garnishment, he could have opted for another, more general wording, namely "the amounts obtained from the forced execution".

Contrary also to this argument, the same claim can be made as before, in the sense that, if in the way of pursuing movable or immovable property, the term of sale of the goods represents the start of their capitalization stage, in the way of garnishment, this transposed term can only be determined by the date set by the bailiff for the garnishee to fulfill his obligations.

In addition, it can be noted that the interpretation of legal norms, when they are unclear, is made not only in the letter of the law, but also in the spirit of the entire regulation, thus resulting in the legislator using the generic expression "capitalization of the debtor's assets", expression to be adapted by the interpreter to the specifics of each way of forced tracking. A contrary solution would be likely to lead to the truncation of the enforcement regulation and to its removal from the meaning pursued by the legislator. The use of this generic expression cannot mean that the institution of the intervention would not be admissible in the matter of garnishment.

- according to art. 782 para. (8) C. of Civil Procedure, after the establishment of the garnishment, any other creditor of the garnished debtor will be able to garnish the same receivable until the release or distribution of the amounts made from the garnishment, and art. 786 para. (2) regulates the hypothesis of the establishment of several garnishments, in which case the garnishee will proceed, according to par. (1), communicating, as the case may be, to the executor or creditors indicated in points 1 and 2 of the same paragraph, the name and address of the other creditors, as well as the amounts garnished by each of them.

In support of the view that the request for intervention is not admissible in the matter of garnishment, it should be noted that the two texts referred to above do not contain any reference to the procedure of intervention. Therefore, if the legislator had wanted to make the two institutions compatible, it would have been natural for there to be a norm referring to the institution of intervention, a norm which, however, does not exist.

Under this aspect and contrary to the previously presented opinion, it is observed that neither art. 782 para. (8) and neither art. 786 para. (2) C. of Civil Procedure do not exclude the procedure of intervention in the matter of garnishment, which means that, not being expressly excluded, it is allowed and that, whenever the special norm is silent, it does not provide, it is completed with the general norm.

On the other hand, it is shown that, from the two corroborated texts, it results that the recording stage is the subsequent to the unavailability of the amounts, which means that, in the view of the legislator, the second creditor appeared in the procedure due to the fact that he sent an official letter containing the establishment of the garnishment, which first attracted the unavailability of the sums, and not as an effect of the intervention.

In this sense, contrary to the mentioned opinion, we appreciate that the hypothesis of the existence of several competing garnishments does not have as premise only the case of several execution procedures initiated by different following creditors in distinct execution files, but may also come as a result of the intervention of some third party creditors in the procedure started by the pursuing creditor.

Thus, if art. 782 para. (8) from the Code of Civil Procedure establishes that, after the garnishment is established, any other creditor of the garnished debtor will be able to garnish the same claim until the release or distribution of the amounts made from the garnishment, in compliance with the provisions of art. 786, it means that the intervention is admissible, the bailiff following to proceed himself to the distribution of the amount recorded by the garnishee to the chaser creditor and the intervening creditor.

Neither art. 786 para. (2) C. of Civil Procedure does not exclude the procedure of intervention in the matter of garnishment, the text dealing with the situation in which the bailiffs who established the garnishments are different, which does not mean that there can be no situation of several garnishments established by the same bailiff at the request of several creditors from the same executive file.

- art. 788 C. of Civil Procedure regulates the case of garnishments that exceed the size of the traceable amount, establishing that, in this case, the garnishee, within the term provided in art. 786 para. (1), will retain and record the traceable amount, notifying the bailiffs who established the garnishments, the provisions of art. 653 applying accordingly.

Thus, it is argued that if the legislator had wanted to make the two institutions compatible - intervention and garnishment - it would have been natural for the garnishment regulation to contain a rule of reference at the institution of intervention, a rule which, however, does not exist in the conditions under which, in many other cases, the legislator was generous with the rules of reference. It results, therefore, that the lever to be used in the case of competing garnishments is the institution of connection, the text referring to the provisions of art. 653 C. of Civil Procedure, so that, once accepted the idea that the incident mechanism for the existence of garnishments that exceed the size of the traceable amount is the connection, it means that several creditors will not be able to proceed to execution on the same debtor pursued under the auspices of the intervention.

Regarding this aspect, we appreciate that the text of art. 788 C. of Civil Procedure does not rule out the mechanism of the intervention of third party creditors in the procedure initiated by the investigating creditor, but exclusively regulates the situation in which there are several investigating creditors involved in enforcement proceedings instrumented by different bailiffs. For, in the event

that there are several creditors, one pursuer and one or more interveners in the same enforcement case, the distribution procedure will be carried out by the investigating bailiff, who will apply the rules provided by art. 863 and the next.

Along with the counter-arguments previously presented, several reasons that support the thesis of the admissibility of the intervention in the way of garnishment can be presented. Thus :

- from the point of view of the legal basis of the matter, the intervention is regulated by the Code of Civil Procedure in the general part of the execution procedure, so that whenever the norms included in the special part do not regulate a certain aspect, they will be completed with the general provisions.

- in addition, art. 689 para. (1) C. of Civil Procedure provides that any creditor may intervene during the forced execution initiated by another creditor, but only under the conditions and within the limits provided in the par. (2), which means that the possibility of intervention is not excluded, including in the way of garnishment.

- art. 789 para. (3) of the Code of Civil Procedure stipulates, in the matter of validation, that the court will summon the following creditor and the intervening creditors, if applicable, the debtor and the garnishee. Therefore, the possibility of intervention of creditors in the garnishment procedure is indisputable.

It cannot be substantiated that the notion of "intervening creditor" means the creditor who initiated and continued the collective insolvency garnishment and, having an interest in participating in the validation procedure, intervenes in the trial procedure, using the procedural means of the request for intervention, since, from the enumeration by the legal text of the parties in the validation process, it cannot be denied that it is about the creditors who intervened in the enforcement procedure initiated by the pursuing creditor, and not by those who acquired this quality during the process. Moreover, a contrary interpretation could not be substantiated, considering that the request for intervention can be formulated within the terms provided by the art. 62 C. of Civil procedure, depending on the type of intervention, even until the closing of the debates, so that the legislator could not have anticipated the existence of the intervening creditors from the moment of summoning the parties in the validation process.

4. Concurrent garnishments

During the development of a forced execution in the way of garnishment, there is the possibility of a contest between several such procedures. In the following, the possible hypotheses of the occurrence of concurrent garnishments will be analyzed, as well as the controversial or unclear aspects related to the procedure for solving them.

4.1. The case of the garnishments that do not exceed the size of the traceable amount

According to art. 786 para. (2) C. of Civil Procedure, if several garnishments are established, the garnishee will proceed according to par. (1), communicating, as the case may be, to the executor or to the creditors indicated in points 1 and 2 of the same paragraph, the name and address of the other creditors, as well as the amounts garnished by each one.

Therefore, in case several garnishments are established, the garnishee will be obliged to proceed with the recording of the sums of money or the unavailability of the garnished intangible movable goods, communicating, as the case may be, to the executor or creditors, in case of sums owed as obligation of maintenance or allowance for children, as well as in the case of amounts owed as compensation for damages caused by death, damage to bodily integrity or health, the name and address of other creditors, and the amounts garnished by each.

The text regulates the hypothesis of concurrent garnishments whose object does not exceed the traceable amount, in which case the garnishee has the obligation to proceed according to the mentioned provisions, and all creditors will be satisfied. As such a situation does not raise any particular practical difficulties, we do not insist on it.

4.2. The case of garnishments that exceed the size of the traceable amount

According to art. 788 C. of Civil Procedure, in case several garnishments are established and the amounts for which the garnishment was ordered are exceeding the amount traceable from the debtor's income, the garnishee, within the term provided in art. 786 para. (1), shall retain and record the traceable amount, notifying the bailiffs who established the garnishments, the provisions of art. 653 applying accordingly. The distribution will be made by the competent bailiff, according to the provisions of art. 863 and the next.

Therefore, the text regulates the hypothesis in which several bailiffs have ordered the establishment of garnishment over the debtor's assets, and the amount for which the garnishment was ordered exceeds the traceable amount, the garnishee being obliged to notify the bailiffs who established the garnishments, within 5 days; following that, at the request of the interested person or of any of the executors, the enforcement court shall order the connection of the executions, and the distribution of the garnished amounts shall be made by the bailiff appointed through a conclusion by the court.

The reference that the text makes to the connection institution regulated by art. 653 C. of Civil Procedure, however, it should not be interpreted in the sense

that only through this procedural mechanism is it possible for concurrent garnishments to arise. The referral made by the legislator was necessary to provide a necessary tool for resolving the contest between the garnishments set up by different bailiffs, being obvious that a procedure of distribution of sums exceeding the traceable amount can be carried out by only one bailiff, and not by several, the essence of the distribution being the existence of a single execution file and of several creditors.

However, there is nothing to prevent the hypothesis of concurrent garnishments from being based on the mechanism of intervention of third party creditors in the enforcement case opened by the investigating creditor, a situation in which the distribution procedure will be instrumented by the bailiff invested by the investigating creditor.

From the point of view of the field of application, art. 788 C. proc. has the legal nature of a special norm that regulates a certain matter, which does not implicitly imply the exclusion from the application of another legal norm that has a completely different scope of application. Thus, if several garnishments are set up in the same enforcement case and the amounts for which the garnishment was ordered exceed the size of the traceable amount, the distribution procedure will be performed by the investigating bailiff in that case.

It should be noted that, when *amounts with successive maturities* are garnished, the possibility for the third party creditors to intervene in the procedure must be recognized only until the moment of communication of the address of establishment of the garnishment, in this case, the unavailability expanding not only over the amounts arrived at maturity, but also on those that might fall due in the future [art. 783 para. (2) C. of Civil Procedure].

In this context, it is necessary to highlight a certain *ambiguity* of the art. 788 C. of Civil Procedure regarding the manner in which the garnishee, who has the obligation to withhold and record the amount that can be traced at the same time as the obligation to notify the bailiffs who set up the garnishments, will proceed. In other words, finding that the third party also has the obligation to record the traceable amount, and not only to withhold it, the following question arises : at the disposal of which of the bailiffs who set up the concurrent garnishments will the garnishee make the record?

As far as we are concerned, we consider that, proceeding to a systematic and logical interpretation of the legal text, the garnishee must record the amounts withheld for the bailiff who set up the first garnishment, the other bailiffs will be notified only about the establishment of the other garnishments, having at hand the possibility to use the provisions of art. 653 C. of Civil procedure. In such a case, we do not believe that it could be argued that the attitude of the garnishee could be sanctioned by the validation of the other garnishments, since the so-

called non-fulfillment of his obligations to carry out the garnishment is based on a legal basis, that is the text of the art. 788 C. of Civil Procedure.

The admission of a validation request must always be conditioned by the fault of the third party in the non-observance of the legal obligations incumbent on him in the garnishment procedure. Therefore, the case of the existence of several garnishments presupposes a special procedure, the obligations of the third party in such a hypothesis being specific and expressly provided by the mentioned text, a text that further transfers the responsibility for the procedure to the bailiffs who set up the following garnishments. Thus, the third party can no longer be held liable for non-execution of subsequent garnishments.

In the same context, it is necessary to clarify an aspect related to the rules for the distribution of the amounts recorded by the garnishee, considering that the provisions of art. 788 para. (2) C. of Civil Procedure refer to the provisions of art. 863 and the following.

In other words, the legitimate question arises whether the reference made by the text extends only to the provisions contained in the I-st Section, "General Provisions" from the Chapter " The Release and Distribution of the Amounts Made by Forced Pursuit" or also to the following provisions contained in the II-nd and III-rd Sections of the same Chapter, which regulate the stages of the distribution procedure and the method of payment of the amount resulting from the pursuit. Therefore, it remains to be established how comprehensive the reference made by art. 788 para. (2) is.

In this respect, we appreciate that the reference that art. 788 para. (2) C. of Civil procedure does to the provisions of the art. 863 and the following must be interpreted in the sense that all the rules regarding the distribution of the amounts made by forced pursuit will be applied in the garnishment procedure, after the connection, without any differentiation, as the legislator did not introduce such a distinction. And, where the law does not distinguish, the interpreter does not have to do it either. In addition, since a procedure for linking concurrent garnishments resulted in the reunification of all cases into a single enforcement case instrumented by the bailiff established by the court, it is natural that he should also apply the rules for the distribution of sums, since, the execution file resulting as a result of the connection will involve several creditors. And, the essence of the distribution is the existence in a file of execution of several creditors, regardless of the way in which they became co-participants.

Therefore, as far as we are concerned, we appreciate that the expression "the provisions of art. 863 and the following" at the end of the art. 788 C. of Civil procedure refers to all the provisions of the III-rd Chapter entitled " The Release and Distribution of the Amounts Made by Forced Pursuit".

4.3. The submission of debt securities - another possible mechanism for the occurrence of concurrent garnishments

Regarding the possible hypotheses of the occurrence of concurrent garnishments, the question arises whether one of them could be represented by the institution of submission of debt securities, a procedure regulated by the art. 868-869 C. of Civil Procedure.

Thus, the hypothesis of art. 864 para. (1) C. of Civil procedure states that, "in case the forced pursuit was initiated by several creditors or when, until the release and distribution of the amount resulting from the execution, other creditors also submitted their titles, the bailiff proceeds to distribute the amount according to the following order of preference....". It would therefore result from the legal text, the possibility that also in the garnishment procedure, other creditors to submit their debt securities until the moment of issuance and distribution of the amount resulting from the execution, the legal text not making any distinction depending on the method of forced pursuit to which the creditor appeals.

The same conclusion can be drawn from the regulation of the art. 868 para. (1) and (2) C. of Civil Procedure, the legislator recognizing the possibility of any interested creditor to submit his debt of securities, following that later, depending on the appearance of other creditors, the bailiff will proceed to release or distribution according to the order of preference provided in art. 864-867.

Also, the provisions of the art. 868 para. (1) C. of Civil Procedure, which refer to the "amount resulting from the sale" as the amount that is the object of the distribution procedure, as an argument for the support of the thesis contrary to the admissibility of the procedure for the submission of the debt securities in the garnishment procedure. However, such a stage of sale is not specific to the matter of garnishment, so that the mechanism for the submission of the debt securities cannot be incidental to garnishment. In this respect, we appreciate that, compared to the previous considerations regarding the interpretation of legal norms, the wording of the text, although susceptible to improvement, is not a restrictive one, but it must be analyzed in conjunction with the rest of the regulation. It is observed from the whole regulation of the execution procedure that the legislator was not extremely rigorous in the use of the expressions, so that a strictly literal interpretation is not a consistent one. In addition, a contrary solution would not justify the option of the legislator for the institution of submission of the debt securities to be applicable only in the form of foreclosure of movable or immovable property, and not in the form of garnishment. We also note that the legislator regulated the form of forced pursuit by garnishment as a kind of movable forced pursuit (art. 624 point 1 and section 3 of Chapter I of Title

II), so that, also from this point of view, it can be argued that the legislator did not want to introduce any distinction between the different methods of enforcement in terms of the incidence of the procedure for the submission of the debt securities. Therefore, the expression "the amount resulting from the sale" must be understood as "the amount resulting from the execution".

Moreover, the provisions of art. 878 para. (1) C. of Civil Procedure stipulate that, unless otherwise provided by law, the payment of the amount resulting from the execution may be ordered only after the expiration of the term for the submission of the debt securities or, as the case may be, on the date of expiration of the term for objections against the distribution project. Therefore, it is noted that the time of payment is different depending on the existence of a single creditor or several. Thus, for the situation where there is only one creditor, the payment of the amount resulting from the execution can be ordered only after the expiration of the term for submitting the debt securities, and for the situation of a group of creditors, at the expiration of the term for objections against the distribution project.

In conclusion, it is noted that all the arguments presented plead for the solution of admissibility of the procedure for submitting the debt securities also in the garnishment procedure and regardless of whether the enforcement procedure concerns a single creditor or several creditors, pursuers and / or interveners.

Such a conclusion, however, does not seem to reconcile at all with the specifics of the garnishment procedure, recognized and frequently used in practice as a procedure characterized by speed, suppleness and simplicity. In addition, the prosecution would be delayed, with important consequences in terms of legal relations between the parties.

Likewise, extending the critical analysis to the general level, it is observed that, by regulating the institution of submitting the debt securities, the legislator regulated a mechanism that, practically, deprives other third parties creditors in the proceedings of effectiveness or, better said, of the interest to appeal to the institution of interventions. Thus, after the general part of the code regulates strictly and formally the specific rules of the intervention procedure and the effects of their non-observance, in the special part it is allowed to participate in the distribution procedure, without any limitations or restrictions, through the procedure of submitting debt securities, any interested creditor, who has not previously used the intervention procedure, in this sense being the provisions of the art. 690 C. of Civil procedure, which allow only the creditors from the category of those listed in par. (2) of the text to be able to participate in the distribution according to the rank conferred by their right of preference, even if

their request for intervention was made after the expiration of the intervention term, if they submitted their debt securities within the term provided in art. 868 para. (2) in order to prepare the project for the distribution of the amount resulting from the pursuit.

Therefore, the art. 690 Code of civil procedure regulates the correlation between the intervention procedure and that of the submission of debt securities, resulting that those creditors who have filed an application for intervention, qualified as late will no longer be able to use the mechanism for the submission of the debt securities, except for the creditors mentioned by par. (2) of the text, resulting that the intervention mechanism excludes the possibility of submitting debt securities.

But, which creditor would like to go through the entire procedure of the intervention, assuming the expenses of time, financial resources and energy, risking even being sanctioned as a result of disregarding the intervention term, if he has at hand the possibility to submit his debt of securities, according to a procedure not very clearly regulated, which does not involve costs on his part and which facilitates the extremely favorable opportunity to participate in the distribution, without any restrictions, the only limitation being possibly imposed only by the rank of his debt?

Consequently, we plead for the elimination in the future from the regulation of the code of the procedure of submission of the debt securities, an institution likely to lead to the difficulty of prosecution and the establishment of procedural inequities between different creditors interested in participating in the enforcement procedure already started.

However, by law, one cannot ignore the regulation of this institution of the submission of debt securities, being obvious that the legislator has regulated several possible mechanisms for the occurrence of collective insolvency garnishments, namely the request for intervention, the connection of executions and the submission of debt securities.