

November 27, 2025

Expeditious relief supporting extrajudicial enforcement under the UNIDROIT Best Practices Project

Presenter

Richard M. Kohn

Art. 74, UNCITRAL Model Law on Secured Transactions

- Provides for expeditious court proceeding for either:
 - Option A: Non-compliance by secured creditors
 - Option B: Non-compliance by any party
- Rec. 120 of the UNIDROIT Guide builds on Option B of Art. 74 by adding important details regarding the expeditious court proceeding

Key characteristics of Recommendation 120

- Goal: To support the extrajudicial enforcement process
- Not an excuse for converting an extrajudicial process into a judicial process
- Not to be confused with expedited judicial process (also contemplated by the UNCITRAL Model Law)
- Supports entire extrajudicial enforcement process, including obtaining possession
- Calls for a “concentrated, expeditious and simple procedure to support extrajudicial enforcement”
 - No piecemeal relief: all relevant issues should be addressed
- Available to all parties who feel their rights are affected by the extrajudicial process
 - Available to debtor who claims no debt owing or no default
 - Not available if money damages can suffice (unless secured party unable to pay)

Procedure for Expedious Proceeding

- Begins with notice to respondent and parties in possession or control of encumbered assets
- Court relief may include:
 - Court order
 - “Regulatory provisional measure” (interim or provisional injunctive relief or proactive measures)
 - Promoting settlement
- Relief must be granted within “a short period of time”

Limitations on the Court

- Must support the extrajudicial process (enable it to progress)
- Must not convert extrajudicial process to judicial process
- All relevant facts must be undisputed, not credibly disputed or proven
- An order may be subject to conditions
- A regulatory provisional measure must comply with Recommendation 73 of UNIDROIT Enforcement Guide
- The court may enforce its relief (contempt of court or local equivalent) to “secure the proper administration of justice”
 - Enforcement may not convert extrajudicial process into judicial process

Thank you!

