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SUMMARY COMPARISON BETWEEN A MORTGAGE AND AN ENTERPRISE PLEDGE WITH IDENTIFICATION OF REAL ESTATES

This document contains a brief comparison between a mortgage and an enterprise pledge with identification of real estates, in either case under Bulgarian law and of assets located in Bulgaria. The purpose of this document is to serve as a quick guide to lenders considering financing of real estate projects in Bulgaria or other financing where security assets include (inter alia) real estate in Bulgaria.

This document is not intended to be comprehensive of all Bulgarian law legal issues that may be relevant to taking, maintaining or enforcing either type of security in Bulgaria. It does not constitute legal advice on any specific transaction and Boyanov & Co. expressly reject any liability based on the use of this document alone in taking a decision in relation to any specific transaction.

For any questions in relation to any matter discussed in this document, please contact Damian Simeonov, Partner, Co-Head of the Banking and Finance Practice Group of Boyanov & Co. at email d.simeonov@boyanov.com.

Mortgage	Enterprise Pledge with Indication of Specific Real Estates
Established by notary deed executed in front of a notary (PRACTICALLY NO DIFFERENCE¹⁾)	Established by written agreement with notarial verification of the signatures (PRACTICALLY NO DIFFERENCE²⁾)

¹ With the exception that the notarial fees for a mortgage deed are slightly higher, currently capped at BGN 6,000 (about EUR 3,000)

² Notarial fees slightly less than for a mortgage deed – currently BGN 1,800, ex-VAT (about EUR 900), although notaries will usually try to charge same fee as for a mortgage deed

Registered in the Land Register (PRACTICALLY NO DIFFERENCE)	Registered first in the Commercial Register and subsequently as a secondary registration in the Land Register (PRACTICALLY NO DIFFERENCE)
Registration valid for 10 years	Registration valid for 5 years
In insolvency ranks ahead of all other claims registered in the Land Register over the same assets after it or unregistered in the Land Register at all (NO DIFFERENCE)	Same (NO DIFFERENCE)
Outside insolvency ranks only after certain claims of the state for taxes for the mortgaged property and claims for enforcement costs (NO DIFFERENCE)	Same (NO DIFFERENCE)
Registration fees based on percentage (0.1%) of the value of the secured claims without any cap (CONS)	Registration fees are simple one-off fee, which is practically nominal (PRO)
Enforcement only through a bailiff under strictly regulated procedure (CONS)	Enforcement sale by the secured creditor itself without any specific procedure (PRO)
Enforcement costs regulated by a state-approved tariff and based on a percentage of the value of the enforced claims without any cap; total enforcement costs may exceed 4% without any cap (CONS)	Since enforcement is done by the secured creditor itself the enforcement costs would depend almost entirely on the enforcement process chosen by the secured creditor (PRO)
Traditional type of security with a lot of	Relatively newer type of security with not

precedents in practical enforcement (PRO)	much enforcement practice and very few case law (CONS)
Enforcement process strictly regulated by law and so the secured creditor bears no risk of liability for breach of duty in the enforcement (PRO)	As the enforcement is done by the secured creditor itself it must exercise a degree of reasonable care in ensuring the best price, etc. and not damaging unnecessarily the pledgor (CONS)
Since the enforcement is strictly regulated by law and is done through a bailiff the pledgor has relatively less possibilities to hinder the enforcement process (PRO)	The enforcement might be practically hindered by the pledgor by not cooperating with the secured creditor in obtaining certain certificates and documents usually required for a sale of a real estate (CONS)
No enforcement can be done, or if enforcement has commenced it need to stop, if insolvency proceedings of the pledgor is opened (CONS)	The opening of insolvency proceedings of the pledgor does not stop or prevent the commencement of enforcement (PRO)
