Small claims

Естония

1 Existence of a specific small claims procedure

The rules of procedure for hearing civil cases in Estonian courts are laid down in the Code of Civil Procedure (tsiviilkohtumenetluse seadustik (TsMS)). If a civil case is heard under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, the rules set out in the Code of Civil Procedure with regard to the simplified procedure will apply to the extent that this is not regulated by the Regulation. Cases may be heard under the Regulation by the county court (maakohus) competent to do so according to jurisdiction. Pursuant to section 405 of the Code of Civil Procedure, which regulates the simplified procedure, courts hear simplified procedure actions following simplified rules at their reasonable discretion and having regard only to the general procedural principles provided for in the Code.

1.1 Scope of procedure, threshold

If a civil case is heard under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, the rules set out in the Code of Civil Procedure with regard to the simplified procedure will apply to the extent that this is not regulated by that Regulation. The simplified procedure rules are applied to domestic cases which concern proprietary claims and the value of which does not exceed an amount corresponding to 2,000 euros for the main claim and to 4,000 euros together with collateral claims.

1.2 Application of procedure

Under subsection 405(3) of the Code of Civil Procedure, courts may hear cases following simplified rules without having to make a separate ruling concerning this fact. Courts hear actions following simplified rules at their reasonable discretion having regard only to the general procedural principles. In the simplified procedure, courts guarantee that the fundamental rights and freedoms and the essential procedural rights of the participants in proceedings are observed and that participants in proceedings are heard if they so request. A court session need not be held for this purpose. Participants in proceedings must still be notified of their right to be heard by the court. Courts may simplify the procedure, but are not obliged to do so.

When hearing an action in the simplified procedure, a court may:

- minute procedural acts only to the extent the court deems it necessary, and preclude the right to file any objections to the minutes;
- set a term which differs from the term provided by law;
- recognise persons not specified by law as contractual representatives of participants in proceedings;
- deviate from the provisions of law concerning the formal requirements for submission and taking of evidence and also accept pieces of evidence not provided by law, including a statement of a participant in proceedings which is not given under oath;
- deviate from the provisions of law concerning the formal requirements for serving procedural documents and for documents to be presented to the participants in proceedings, except for serving an action on the defendant;
- waive written pre-trial procedure or the court session;
- take evidence at its own initiative;
- make the judgment in the case without the descriptive part and statement of reasons;
- declare a decision made in the case to be immediately enforceable also in cases other than those specified by law or without a security prescribed by law.

An application for the initiation of the European Small Claims Procedure can be filed with a court in an electronic format or by post. An application in electronic format can be filed via the information system designed for the purpose (the E-toimik (e-File system), https://www.e-toimik.ee/). In order to file an application via the e-File system, one can log in to the information system and operate there only with the Estonian ID card. An electronic application can also be filed with a court by e-mail. The contact details of the Estonian courts are available on the website of courts at http://www.kohus.ee/.

The application must be signed by its sender. An electronically filed application must be digitally signed by the sender or submitted in any other similarly secure manner which makes it possible to identify the sender. An electronic application may also be filed by fax or any other format which can be reproduced in writing, provided that the original written document is delivered to the court without delay. If a court ruling is appealed, the original appeal must be filed within ten days.

The court may deem an application or any other procedural document submitted by e-mail by a participant in proceedings to be sufficient even if it fails to comply with the requirement of bearing a digital signature, provided that the court has no doubts about the identity of the sender and the sending of the document, especially if documents with a digital signature have been sent earlier from the same e-mail address to the court in proceedings concerning the same matter by the same participant in proceedings, or if the court has agreed that applications or other documents may also be submitted in such manner.

The acceptance specified in Article 13(1)(b)(ii) of the Regulation establishing a European Small Claims Procedure can be communicated electronically via the e-File electronic information system (https://www.e-toimik.ee/) or by e-mail or fax under the conditions mentioned above. Such acceptance may also be filed with the court together with the application for the European Small Claims Procedure.

Procedural documents must be served on advocates, notaries public, bailiffs, trustees in bankruptcy and state or local government agencies electronically via the information system designed for the purpose. Their service in any other manner is only permitted with good reason. In the simplified procedure, the formal requirements regarding serving of procedural documents may be deviated from; however, this option should be considered with caution. The rules regarding serving of procedural documents may not be deviated from when serving statements of claim on defendants and judicial decisions on participants in proceedings.

The rate of the state fee is determined based on the value of the civil case, which in turn is calculated taking into account the amount of money requested to be paid. When calculating the value of a civil case, the amount of collateral claims must be added to the amount of the main claim. If in the European Small Claims Procedure a penalty for late payment is claimed but the penalty has not fallen due as of the moment of submission of the application, the amount of the penalty corresponding to the amount due for one year must be added to the amount of the same calculated as of the date of submission of the application. The rate of the state fee is determined based on the final amount of money calculated (value of the civil case) and following the table given in Annex 1 to the State Fees Act (riigilõivuseadus) as per subsection 59(1) thereof.

When filing an appeal the state fee will be payable in the same amount as paid upon initial submission of the application for the European Small Claims Procedure to the county court, taking into consideration the extent of the appeal. When filing an appeal against a court ruling with a circuit court (ringkonnakohus), a state fee of 50 euros must be paid. When filing an appeal in cassation or an appeal against a court ruling with the Supreme Court (Riigikohus), a security on cassation is payable. The security on cassation to be paid on an appeal on cassation is one percent of the value of the civil case, taking into consideration the extent of the appeal; however, the security will not be less than 100 euros or more than 3,000 euros. The security on cassation payable on an appeal against a court ruling is 50 euros.
The state fees and securities on cassation due for acts to be made in court cases must be paid to the following bank accounts of the Ministry of Finance:
SEB Bank – a/c EE571010220229377229 (SWIFT: EEUHEE2X)
Swedbank – a/c EE062200221059223099 (SWIFT: HABAEE2X)
Luminor Bank – a/c EE221700017003510302 (SWIFT: NDEAEE2X)
If a judgment which is made in the European Small Claims Procedure and has taken effect is not complied with voluntarily, the person wishing to subject the judgment to compulsory enforcement must turn to a bailiff in order to initiate enforcement proceedings.
Under Article 21(2)(b) a judgment given in litigations conducted under the Regulation will only be enforceable in Estonia if it is made in Estonian or English or if a translation into Estonian or English is appended to the certificate. If a judgment given in the European Small Claims Procedure is appealed, the measures specified in Article 23 of the Regulation will be taken by the circuit court with which the appeal is filed. If a judgment is made by default and a petition is filed to set aside the default judgment under section 415 of the Code of Civil Procedure, the application for the measures must be submitted with the court hearing the petition.
If no appeal has yet been filed, the measures specified in Article 23 of the Regulation are taken by the court which made the decision. The measure specified in Article 23(c) of the Regulation can be taken by the county court within the jurisdiction of which the enforcement proceedings are or should be conducted.
In the events specified in section 46 of the Code of Enforcement Procedure (täitemenetluse seadustik) enforcement proceedings may, in addition to a court, also be stayed by the bailiff conducting the proceedings.

1.3 Forms

There are no standard forms used nationally for simplified proceedings.

1.4 Assistance

If a person participates in judicial proceedings through a contractual representative, the representative must generally hold at least a state-recognised Master's Degree in the field of law, a corresponding qualification within the meaning of subsection 28 (22) of the Republic of Estonia Education Act (Eesti Vabariigi haridusseadus) or a corresponding foreign qualification. In the simplified procedure, however, a court may allow a person who does not comply with said educational requirements but who is, in the opinion of the court, still competent to represent another person in court to act as a representative. The special rules pertaining to the simplified procedure are only applicable to first-instance litigations in county courts. A contractual representative accepted by a county court but not complying with the educational requirements cannot perform any procedural acts in a circuit court or the Supreme Court.
Participation of a representative in a case does not restrict a participant in proceedings with active legal capacity in civil proceedings from participating personally in the case. The behaviour and knowledge of a representative is deemed to be equivalent to the behaviour and knowledge of a participant in proceedings.
If the court finds that a natural person who is a participant in proceedings is unable to protect their rights on their own or that their essential interests may be insufficiently protected without the assistance of an advocate, the court will explain to that person the possibility to receive state legal aid.
Legal aid is provided pursuant to the rules regarding procedural assistance set out in the Code of Civil Procedure (section 180 ff.) and to the procedure specified in the State Legal Aid Act (riigi õigusabi seadus). State legal aid is granted on the basis of the person's application.
State legal aid is granted to a natural person who, at the time of submission of the application for state aid, is resident in the Republic of Estonia or another EU Member State or is a citizen of the Republic of Estonia or another EU Member State. Residence is determined on the basis of Article 62 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Other natural persons are granted legal aid only if this results from an international obligation binding on Estonia.
An application for state legal aid in judicial proceedings as a party to a civil case is to be submitted to the court hearing the case or the court that would be competent to hear the case.
A natural person is entitled to state legal aid if the person is unable to pay for competent legal services due to the person's financial situation at the time the person requires legal aid or if the person is able to pay for legal services only partially or in instalments or if the person's financial situation does not allow them to meet basic subsistence needs after paying for legal services.
A natural person is not granted legal aid if:
(1) the procedural expenses are not presumed to exceed twice the average monthly income of the person requesting legal aid calculated on the basis of the average monthly income of the last four months before the submission of the application less any taxes and compulsory insurance payments, amounts prescribed to fulfil a maintenance obligation arising from the law and reasonable expenses on housing and transport;
(2) the person requesting legal aid is able to cover the procedural expenses out of the existing assets which can be sold without any major difficulties and against which a claim for payment can be made pursuant to the law;
(3) proceedings relate to the economic or professional activity of the person requesting procedural assistance and do not concern his or her rights which are not connected to his or her economic or professional activity. This does not apply to the extent that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on recourse to the court or on appeal if proceedings concern the economic or professional activity of the person requesting procedural assistance and are not related to his or her rights which are not connected to his or her economic or professional activity.

1.5 Rules concerning the taking of evidence

In the **simplified procedure** a court may deviate from the provisions of law concerning the formal requirements for provision and taking of evidence and to also accept pieces of evidence not provided by law (e.g. a statement of a participant in proceedings which is not given under oath). Contrary to ordinary proceedings of action, in a simplified procedure case a court may take evidence also at its own initiative. It must, however, be ensured that the court's acts may not damage the parties' equality before the court. The facts concerning which the court takes evidence must be made known to the court beforehand.
The rules pertaining to the taking of evidence are set out in Chapter 25 of the Code of Civil Procedure. In actions, each party must prove the facts on which their claims and objections are based, unless otherwise provided by law. The parties may agree to divide the burden of proof differently from that which is provided by law and agree on the nature of evidence whereby a certain fact may be proved, unless otherwise prescribed by law. Evidence is submitted by the participants in proceedings. The court may propose to the participants in proceedings that they submit additional evidence. If a participant in proceedings wishing to provide evidence is unable to do so, the participant in proceedings may request the taking of the evidence by the court. A participant in proceedings who provides evidence or requests the taking of evidence must substantiate which facts relevant to the case the participant in proceedings

wishes to prove by providing the evidence or requesting the taking of evidence. A request for taking of evidence must also set out any information which enables the taking of evidence. In the course of pre-trial proceedings, the court sets the participants in proceedings a term for providing evidence and requesting the taking of evidence. If the request of a participant in proceedings for taking of evidence is denied due to the failure of the participant to pay the costs related to the taking of evidence in advance notwithstanding the demand of the court, the participant will not have the right to request the taking of evidence later on if granting the request would then result in adjournment of the hearing of the case.
If evidence has to be taken outside of the territorial jurisdiction of the court hearing the case, the latter may, by letter of request, order the performance of the procedural act by the court within the territorial jurisdiction of which the evidence can be taken. A letter of request is complied with pursuant to the rules established for the performance of the procedural act applied for in the letter of request. The participants in proceedings are notified of the time and place of the procedural act; however, the absence of a participant in proceedings does not prevent compliance with the letter of request. Minutes of procedural acts and evidence taken upon compliance with a letter of request are sent to the court hearing the case without delay. If, in the course of the taking of evidence by the court conducting proceedings on the basis of a letter of request, a dispute arises which may not be resolved by that court but continuation of the taking of evidence depends on the resolution of the dispute, the court hearing the main case will resolve the dispute. If the court complying with a letter of request finds that in order to better adjudicate the case, it would be reasonable to transfer the duty of taking of evidence to another court, it will submit a request to this effect to the other court and inform the participants in proceedings thereof.
Evidence taken in a foreign state pursuant to the legislation of such state may be used in the civil courts of Estonia unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of Estonian civil procedure. The panel of the court which requested the taking of evidence pursuant to the Council Regulation (EC) No 1206/2001 on co-operation between the courts of the Member States in the taking of evidence in civil or commercial matters or a judge acting on the basis of an order may, in accordance with said Regulation, be present at and participate in the taking of evidence by a court of a foreign state. The participants in proceedings, their representatives and experts may participate in such taking of evidence to the same extent as they may participate in the taking of evidence in Estonia. The court panel hearing the case, a judge acting on the basis of an order or an expert appointed by the court may participate in such direct taking of evidence by an Estonian court in another EU Member State, which is permitted by Article 17(3) of the Regulation.
If evidence must be taken elsewhere than in an EU Member State, the court will request the taking of evidence through a competent authority pursuant to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. The court may also take evidence in a foreign state by intermediation of the ambassador representing the Republic of Estonia in such state or a competent consular official unless it is prohibited under the law of the foreign state.
The party who provided evidence or requested the taking thereof may waive and withdraw evidence only with the consent of the opposing party, unless otherwise provided by law.

1.6 Written procedure

A simplified procedure case may be reviewed in a written procedure. The court will then guarantee that the fundamental rights and freedoms and the essential procedural rights of the participants in proceedings are observed and that a participant in proceedings will be heard if he or she so requests. A court session need not be held for this purpose. The court may waive a written pre-trial procedure or the court session.

1.7 Content of judgment

A judgment consists of an introduction, conclusion, descriptive part and statement of reasons.
The introduction of a judgment sets out:
the name of the court which made the judgment;
the name of the judge who made the judgment;
the time and place of making the judgment public;
the number of the civil case;
the object of the action;
the value of the civil case;
the names and personal identification codes or registry codes of the participants in proceedings;
the addresses of the participants in proceedings if this is clearly necessary for the enforcement or recognition of the judgment;
the names of the representatives of the participants in proceedings and if the representatives have been substituted, the names of the latest representatives;
the time of the last court session or a reference to the case being reviewed in written procedure.
The descriptive part of a judgment indicates, concisely and in a logical order, the relevant content of the claims filed and the allegations made, counterclaims submitted and evidence provided with respect to such claims.
The statement of reasons of a judgment sets out the facts established by the court, the conclusions reached on the basis thereof, the evidence on which the conclusions of the court are based and the Acts which were applied by the court. In a judgment, the court must substantiate its reasons for not agreeing with the statements of fact made by the plaintiff or the defendant. The court must analyse all evidence in a judgment. If the court disregards any evidence, it must justify this in the judgment. If one of the alternative claims is granted, the denial of another alternative claim need not be substantiated.
In the **simplified procedure** a court may make a judgment by omitting the descriptive part and statement of reasons or only indicate in the statement of reasons the legal reasoning and the evidence on which the conclusions of the court are based.
In the conclusion of a judgment, the court clearly and unambiguously adjudicates the claims of the parties and any requests of the parties which have not yet been resolved, as well as any issues related to the measures for securing the action which have been applied. The conclusion must be clearly understandable and enforceable even without the text of the rest of the judgment.
The conclusion also sets out the procedure and term for appealing the judgment and, among other things, specifies the court with which the appeal should be filed, and makes a reference to the fact that unless a review of the case at a court session is requested in the appeal, the appeal may be reviewed in written procedure. A judgment by default sets out the right to file a petition to set aside the default judgment. The conclusion also explains that if an appellant would like to request procedural assistance for lodging an appeal (e.g. release from the payment of the state fee on the appeal), the relevant procedural act must be performed, i.e. appeal filed, within the appeal term in order to comply with the time-limits of the proceeding.

1.8 Reimbursement of costs

General principles:
The costs of an action are covered by the party against whom the court decides.
The party against whom the court decides is required to compensate the other party for both court costs as well as any necessary extra-judicial costs which arose as a result of the proceedings before the court.
Court costs include the state fee, security and costs essential to proceedings. Costs essential to proceedings are: (a) the costs related to witnesses, experts, interpreters and translators as well as the costs of persons not participating in proceedings incurred in connection with examinations to be compensated for pursuant to the Forensic Examination Act (kohtuekspertiisiseadus); (b) the costs related to obtaining documentary evidence and physical evidence; (c) the

costs related to inspection, including necessary travel expenses incurred by the court; (d) the costs of service and sending of procedural documents through a bailiff or in a foreign state or on or to extra-territorial citizens of the Republic of Estonia; (e) the costs of issuing procedural documents; (f) the costs related to the determination of the value of the civil case. Extra-judicial costs are among other things: (a) the costs related to the representatives of the participants in proceedings; (b) travel, postal, communications, accommodation and such other costs of the participants in proceedings which are incurred in connection with the proceedings; (c) unreceived wages or salaries or other unreceived permanent income of the participants in proceedings; (d) the costs of pre-trial proceedings provided by law unless the action is filed more than six months after the end of the pre-trial proceedings; (e) a bailiff's fee for securing an action and the costs related to the enforcement of a ruling on the securing of an action; (f) a bailiff's fee for serving procedural documents; (g) a bailiff's fee for enforcement of a European preservation order made on the basis of Regulation (EU) No 655/2014 of the European Parliament and of the Council and the costs related to the enforcement of a European preservation order as well as the fee of the Chamber of Bailiffs and Trustees in Bankruptcy (Kohtutäiturite ja Pankrotihaldurite Koda) for reviewing the request for obtaining information submitted on the basis of the same order; (h) the costs related to the processing of an application for procedural assistance towards the payment of procedural expenses; (i) the costs of participation in conciliation if the court has imposed an obligation on the parties to participate in such a proceeding.

The procedural expenses of a legal representative of a party are reimbursed according to the same rules that apply to the reimbursement of the procedural expenses of the party.

In the event that an action is granted partially, the parties will cover the procedural expenses in equal parts unless the court divides the procedural expenses in proportion to the extent to which the action was granted or decides that the procedural expenses must be borne, in part or in full, by the parties themselves. The division of procedural expenses is indicated in the final decision. The amounts of the expenses are determined pursuant to the rules regarding the determination of procedural expenses either in the final decision made on the merits of the dispute or in a separate ruling to be made after the final decision made on the merits of the dispute has taken effect.

1.9 Possibility to appeal

In the judgment made in a simplified procedure case, a county court may set out that it grants leave to appeal the judgment. The county court will grant leave if, in its opinion, the decision of the court of appeal is necessary for the purpose of obtaining the latter's position on a legal provision. The grant of a permission to appeal need not be justified in the judgment.

In the conclusion of a judgment made in the simplified procedure the court also sets out the procedure and term for appealing the judgment. A circuit court may hear an appeal lodged in a simplified procedure case irrespective of the county court's leave to appeal and an appeal may be filed irrespective of the county court's permission. If a county court has not granted leave to appeal, a circuit court may hear the appeal if the judgment made by the county court could have been influenced by an obvious error in applying the law or establishing facts. A circuit court may, however, refuse to hear an appeal of low value, but only in the event that the resolution of the county court is probably right and further hearing of the case on appeal would merely incur unnecessary costs in terms of both time and money. A circuit court may not refuse to admit an appeal for the sole reason that it is a simplified procedure case. A party or a third party with independent claim may appeal against a judgment made by a court of first instance in the European Small Claims Procedure to the circuit court of the jurisdiction of the county court which made the judgment being appealed against. A third party without an independent claim may file an appeal if it does not contradict the appeal of the plaintiff or the defendant in whose support the third party is participating in proceedings. The same term for filing an appeal or making other procedural acts applies to a third party as applies to the plaintiff or the defendant in whose support the third party is participating in proceedings.

An appeal may not be filed if both parties have waived, by a petition submitted to the court, their right of appeal.

An appeal may be filed within 30 days of serving the judgment on the appellant but not later than within five months of the date the judgment of the court of first instance was made public.

If, during the term for appeal, a supplemental judgment is made in the case, the term for appeal of the initial judgment will also begin to run again as of the date of serving the supplemental judgment. If a judgment made without the descriptive part or statement of reasons is supplemented with the omitted part, the term for appeal will begin to run again as of the service of the full judgement.

The term for appeal may be reduced, or increased for up to five months of making the judgment public if the parties reach a corresponding agreement and inform the court thereof.

An appeal may only state that the judgment of the court of first instance is based on a violation of a rule of law or indicate that, pursuant to the circumstances and evidence which must be taken into consideration in the appeal procedure, a judgment different from that made by the court of first instance should be made.

Among other things, an appeal sets out the following: (1) the name of the court which made the judgment appealed, the date of the judgment and the number of the civil case; (2) the clearly expressed request by the appellant which specifies the extent to which the appellant contests the judgment of the court of first instance and sets out the decision of the circuit court which the appellant requests; (3) the reasoning of the appeal; (4) the time of service of the judgment appealed.

The reasoning of an appeal must specify: (1) the rule of law which the court of first instance has violated in the judgment or upon making the judgment, or the fact which the court of first instance has established incorrectly or insufficiently; (2) the reason for the violation of the rule of law or the incorrect or insufficient establishment of the fact; (3) a reference to the evidence which the appellant wishes to submit in proof of each statement of fact.

Documentary evidence which was not submitted to the court of first instance and which the appellant requests that the court accept is annexed to the appeal. If new facts and evidence are specified as the reason for filing an appeal, the appeal must set out the reason for not submitting such facts and evidence to the court of first instance.

If the appellant would like the court to hear a witness or obtain the statement of a participant in proceedings under oath, or to arrange an expert assessment or inspection, this must be indicated in the appeal together with the reason for this. In such a case, the names and addresses of the witnesses or experts, and their contact numbers, if known, must be included in the appeal.

If the appellant would like the case to be heard at a court session, the appellant must indicate this in the appeal. Otherwise the appellant is deemed to agree to adjudication of the case by written procedure.

If a court has made a judgment without the descriptive part or statement of reasons, the county court must, within ten days of serving the judgment, be notified of the intention to appeal the judgment. The court will then add the omitted parts to the judgment in written procedure. If omitted parts are added to a judgment, the term for filing an appeal will commence again from the service of the supplemental judgment. A participant in proceedings on appeal may file an appeal against a judgment of the circuit court with the Supreme Court if the circuit court has materially violated a provision of procedural law or incorrectly applied a provision of substantive law. A third party without an independent claim may file an appeal in cassation on the conditions provided for in the Code of Civil Procedure.

An appeal in cassation cannot be filed if both parties have waived, by a petition submitted to the court, their right of appeal.

An appeal in cassation may be filed within 30 days of the date on which the judgment was served on the appellant in cassation but not more than five months after the date on which the judgment of the circuit court was made public.

In order to request the review of a judgment under Article 18, an application to set aside the default judgment must be filed with the county court which heard the application. An application to set aside a default judgment is to be filed with the county court which made the default judgment within 30 days of the default judgment being served. If a default judgment is served by public announcement, a petition to set aside the default judgment may be filed within 30 days of the date on which the defendant became aware of the default judgment or of the enforcement proceedings commenced to enforce the default judgment.

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