How to bring a case to court

Bulgaria

1 Do I have to go to court or is there another alternative?

Going to court is one of several available alternatives for dispute resolution.

Before going to court, the parties may first attempt to settle their dispute out of court.

If they are unable to do so on their own, the parties may resort to mediation. Mediation is a voluntary and confidential out-of-court dispute settlement procedure in which a third-party mediator assists the efforts of the parties to reach an agreement. Participation in the procedure is voluntary and the parties may withdraw at any time.

The mediator acts impartially and does not impose a solution to the dispute. In a mediation procedure, all matters are settled by mutual agreement between the parties.

The deliberations relating to the dispute are confidential. The participants involved in mediation are required not to disclose any circumstances, facts and documents that have come to their knowledge during the course of the procedure.

A list of mediators whom the parties may approach, if they wish to use mediation in order to settle their dispute out of court, is available on the website of the Ministry of Justice. Many courts have set up dispute settlement and mediation centres, which work with the mediators on the list.

Arbitration is also available as an alternative extrajudicial remedy. It may be used in property disputes, except for disputes concerning rights *in rem* or possession of immovable property, alimony and child support or employment rights. Arbitration services may be provided by a standing body. Alternatively, dedicated proceedings may be instituted to resolve a particular dispute (*ad hoc* arbitration). Arbitration takes place if the parties to a dispute have concluded an arbitration agreement. The consent of the parties to submit to arbitration all or some of the disputes that may arise or have arisen between them in respect of a particular contractual or non-contractual relationship is set out in an arbitration agreement. This may have the form of an arbitration clause in another contract or that of a separate agreement. The arbitration agreement must be in writing. It is deemed to be in writing if set out in a document signed by the parties or in an exchange of letters, telex messages, telegrams or any other means of communication.

An arbitration agreement is also deemed to exist where the respondent, in writing or by a request noted in the transcript of the arbitration hearing, has consented for the dispute to be heard by an arbitration tribunal or, when the respondent participates in the arbitration proceedings by submitting a rejoinder, furnishing evidence, submitting a counterclaim or appearing in the arbitration hearing, without disputing the jurisdiction of the arbitration tribunal.

In the arbitration agreement, the parties specify the arbitration institution to which they wish to submit their dispute or the particular arbitrator they wish to appoint and the rules of arbitration under which they wish the dispute to be settled. The proceedings of an arbitration tribunal are usually guided by Rules of Arbitration.

For further information, see also Jurisdiction of the courts.

2 Is there any time limit to bring a court action?

Time limits for bringing court actions vary according to the case. There may be different limitation periods (which extinguish the substantive right itself) or prescription periods (which extinguish only the right to bring an action before a court). For more information, see Procedural time limits.

In order to make sure you do not miss the deadline for bringing an action, it is advisable to consult a lawyer in each case.

3 Should I go to a court in this Member State?

See Jurisdiction of the courts.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

The general rule is that the action is brought before the court which has jurisdiction over the area in which the respondent has their permanent address or registered office.

However, there are special rules for certain types of claims, depending on the standing of the party or the subject-matter of the dispute. Thus:

Actions against minors or persons without legal capacity are brought before the court having jurisdiction over the area in which the legal representative of the party is resident.

Actions against persons without a known address are brought before the court having jurisdiction over the area in which the person's attorney or legal representative is resident, or, if the person does not have an attorney or legal representative, with the court having jurisdiction over the area in which the plaintiff is resident.

Actions against legal persons are brought before the court having jurisdiction over the area in which the legal person has its registered office. Actions in respect of disputes which have arisen from direct relations with divisions or branches of such institutions or persons may alternatively be brought before the court having jurisdiction over the area in which the division or branch is situated.

Actions against the State and government institutions, including their departments and branches, are brought before the court having jurisdiction over the area in which the legal relations from which the dispute stems have arisen, except for actions to be brought before the court having jurisdiction over the area in which immovable property is situated or where the will is administered. Where the legal relations have arisen in another country, the action is brought before the competent court in Sofia.

If the claim concerns rights *in rem* in property, partition of jointly owned property or establishing the boundaries or re-establishing ownership rights in immovable property, the action is brought before the court having jurisdiction over the area in which the property is situated. Actions in respect of deeds establishing or transferring rights *in rem* in immovable property and the annulment, voidance and nullification of deeds in respect of rights *in rem* in immovable property are also brought to the court having jurisdiction over the area in which the property is situated.

Actions in respect of inheritance, the complete or partial withdrawal of wills, the division of inheritance or the annulment of voluntary division of property are brought before the court having jurisdiction over the area in which the will is administered. If the testator is a Bulgarian national but the will is administered in another country, the claims referred to in paragraph 1 may be brought before the court having jurisdiction over the area in which the testator has their last permanent address in Bulgaria or before the court having jurisdiction over the area in which the property is situated.

Actions in respect of pecuniary claims arising from contracts may also be brought before the court having jurisdiction over the area in which the debtor has their current address.

Actions in respect of alimony and child support may also be brought to the court having jurisdiction over the area in which the plaintiff has their permanent address.
Actions by and against consumers are brought before the court having jurisdiction over the area in which the consumer has their current address, or, in the absence of a current address, in the area where the consumer has their permanent address.
Workers may also bring an action against their employer before the court having jurisdiction over the area in which their habitual place of work is situated.
If you have suffered wrongful damage, you may bring an action before the court having jurisdiction over the area in which the damage occurred.
An injured party may bring an action for compensation under the Insurance Code (*Kodeks za zastrahovaneto*) against an insurer, the Guarantee Fund and the National Bureau of Bulgarian Road Vehicle Insurers before the court having jurisdiction over the area in which, at the time when the insured event occurred, the plaintiff had their current or permanent address, registered office or place of insurance. Action against respondents from different judicial districts or in respect of property situated in other judicial districts are brought, at the choice of the plaintiff, before the court having jurisdiction over one of these districts.
Jurisdiction attributed by law may not be changed by the parties. However, the parties to a property dispute may depart from the rules of territorial jurisdiction by signing an agreement attributing jurisdiction to a particular court. This provision does not apply to courts having jurisdiction over the area in which immovable property is situated.
Contracts containing choice of jurisdiction clauses for disputes relating to consumer protection or arising under labour law are valid only if signed after a dispute arises.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

The general rules for bringing an action, depending on the nature of the case and the value of the claim, are as follows:
The district court has jurisdiction to hear all civil cases, with the exception of those for which the provincial courts have initial jurisdiction. The provincial court, acting as a court of first instance, has jurisdiction over:
1. actions seeking to establish or challenge parentage, terminate an adoption, declare a person to be under judicial disability or lift such disability;
2. actions concerning ownership and other rights *in rem* in respect of property with a value of more than BGN 50 000;
3. actions relating to civil and commercial matters with a value of more than BGN 25 000, with the exception of claims in respect of alimony and child support, claims under labour law or for the recovery of unauthorised expenditure;
4. actions seeking the annulment of entries in registers and the voidance of circumstances on public record under such entries, when this is provided for by law;
5. claims, regardless of their value, joined in a single application with a claim under the jurisdiction of a provincial court, if they are to be heard within the same proceedings;
6. actions which are subject to adjudication by the provincial court under other laws.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

The plaintiff may choose to bring an action in person or through an authorised representative. The representatives of the parties by proxy may be:
1. lawyers;
2. the parents, children or spouse of the party concerned;
3. legal advisers or other employees with a legal background in the respective institution, business, legal person and sole proprietor;
4. provincial governors authorised by the Minister for Finance or the Minister for Regional Development and Public Works, where the party represented is the government, and
5. other persons provided for by law.

The power of attorney authorising the representative should be attached to the application.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

Applications are usually filed with the court registry and accepted during the working hours of the court by a court clerk. Applications may also be sent by post, addressed to the relevant court.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

Applications must be drawn up in Bulgarian and submitted to the court in writing. Applications may be sent by post, but not by fax or e-mail. The Code of Civil Procedure (*Grazhdanski protsesualen kodeks*) stipulates that all documents the parties submit in foreign languages must be accompanied by translations in Bulgarian, which have been certified by the parties.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

Applications should be submitted in writing. There are no special forms to be used for this purpose, except for the model application for an order for payment and other documents approved by the Ministry of Justice in connection with the order for payment procedure under the Code of Civil Procedure. The Code of Civil Procedure sets out a number of minimum requirements for applications without prescribing any specific form. Pursuant to the Code of Civil Procedure an application must include: an indication of the court; the name and address of the plaintiff and respondent, their legal representatives or agents, if applicable, the plaintiff's personal identification number and the plaintiff's fax number and telex, if any; the value of the claim when it can be assessed; a statement of the circumstances on which the application is based, the subject matter of the application, and the signature of the person who filed the application. In the application the plaintiff must indicate what evidence they are submitting and what facts they intend to prove by it and present all written evidence at their disposal.
The application must be signed by the plaintiff or their representative. If an action is brought by a representative acting on behalf of the plaintiff, the application must be accompanied by a power of attorney confirming that the representative is authorised to bring the action. If the plaintiff does not know how to sign the application or is not able to do so, it should be signed by an authorised person, indicating the reasons why the plaintiff has not signed it. The application is submitted to the court in as many copies as there are respondents.
The application must be accompanied by: a power of attorney when the application is submitted by an agent; a document confirming payment of court fees and expenses, if applicable; copies of the application and its annexes, one for each respondent.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Bringing an action entails the payment of court fees, which depend on the value of the claim and the costs of the proceedings, unless otherwise provided for by law. When the value of the claim cannot be assessed, the court fees are determined by the court. The value of the claim is indicated by the plaintiff. This is the monetary assessment of the subject matter of the case.
Questions concerning the value of the claim may be raised by the respondent or by the court of its own motion not later than the first hearing. If the amount indicated is unrealistic, the value of the claim is determined by the court.

There are two types of court fees — simple and proportionate. Simple fees are determined on the basis of the material, technical and administrative costs of the proceedings. Proportionate fees are based on interest. The court fee is collected on submission of the application for protection or remedy and on issuance of the document for which fees are paid, in accordance with the tariff approved by the Council of Ministers.
Court fees are normally paid by bank transfer to the account of the court on submission of the application. Each party must pay in advance to the court the costs of the service requested. At the request of both parties or at the court's initiative, all the costs are paid by both parties or by one of the parties, depending on the circumstances. The costs to be paid are determined by the court.
Court fees and expenses do not have to be paid by: plaintiffs who are workers, employees and members of cooperatives in applications arising from employment relationships; in alimony and child support claims; in actions brought by the prosecutor; by plaintiffs in actions for wrongful damages resulting from crime, in connection with a conviction which has the force of *res judicata*; or by court-appointed special representatives of a party whose address is unknown.
Court fees and expenses are not imposed on natural persons who are recognised by the court as not having sufficient means. In the case of a request for exemption, the court takes into account the income of the person and their family, certified assets, marital status, health, employment, age and other circumstances. In such cases the cost of litigation is paid from the amounts earmarked in the court budget. In the case of an application for the opening of bankruptcy proceedings filed by the debtor, court fees are not collected. They are collected from the insolvency estate when the property is divided in accordance with the Commercial Act (*Targovski zakon*).
Where an application is fully or partially successful, the court orders the respondent to pay the plaintiff a proportion of the costs of the procedure commensurate with the extent to which the application was successful (court fees, lawyer's fees, expenses relating to court appearances and gathering of evidence). If the plaintiff has been granted free legal aid, the respondent shall be ordered to reimburse the costs in proportion to the successful part of the application. When the case is discontinued, the respondent is entitled to reimbursement of costs and when the court rejects the application the respondent is entitled to claim payment for the expenses incurred in proportion to the rejected part of the application.
Lawyer's fees are agreed between the client and the lawyer and are usually paid on signing of the contract for legal defence or pursuant to the terms of payment. The use of a lawyer to bring an action and during court proceedings is not mandatory.

11 Can I claim legal aid?

Any natural person may request legal aid if they satisfy the legal conditions for doing so. Legal aid entails the provision of free legal counsel.
An application for legal aid is filed in writing to the court before which the case is pending. In the order granting the application, the court must specify the type and extent of the legal aid to be granted. The order granting legal aid takes effect from the date on which an application is lodged unless the court decides otherwise. The order is granted in closed session unless the bench considers it necessary to hear the party in order to clarify all circumstances. An appeal may be lodged against an order refusing legal aid by lodging a private appeal. The order issued by the court of appeal is final.
In civil and administrative cases, legal aid is granted when, on the basis of evidence provided by the relevant competent authorities, the court or the chairperson of the National Legal Aid Bureau makes a determination that the party does not have means to pay the lawyer's fee. For the purpose of this determination, the court takes the following into account:
1. the income of the party or that of their family;
2. the property and assets of the party certified by a declaration;
3. the marital status of the party;
4. the state of health of the party;
5. whether the party is employed;
6. the age of the party;
7. other circumstances.

Legal aid is not provided:
1. where the provision of legal aid is not justified in terms of the benefit it would bring to the person applying for legal aid;
2. where the claim is manifestly unfounded, unjustified or inadmissible;
3. in cases involving commercial and tax disputes under the Tax and Insurance Procedure Code (*Danachno-osiguritelen protsesualen kodeks*), unless the party applying for legal aid is a natural person and is eligible for legal aid.

Legal aid is discontinued:
1. when a change occurs in the circumstances on account of which legal aid was granted;
2. upon the death of the natural person to whom it was granted.

The court, acting *ex officio* or at the request of the party or the court-appointed lawyer, orders the full or partial termination of the legal aid granted as from the time when a change occurs in the circumstances on account of which legal aid was granted.
The court, acting *ex officio* or at the request of the party or the court-appointed lawyer, orders the full or partial cancellation of legal aid, if it is established that the conditions upon which legal aid was granted did not exist in part or in full.
In the event of legal aid cancellation, the party is required to pay or repay any sums from which they were unduly exempted, together with the fee of the court-appointed lawyer representing the party in the proceedings.
The court-appointed lawyer continues to discharge their duties until the entry into force of the order terminating or cancelling the legal aid, when this is necessary to protect the party from adverse legal consequences. The time period for lodging an appeal is suspended in the interval between the date on which the court delivers its ruling on legal aid termination or cancellation and the date on which the ruling enters into force. Once this interval has elapsed, the time period for lodging an appeal resumes.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

Applications and other correspondence received by post and documents delivered in person during court office hours are registered by the court in the incoming correspondence logbook on the day of receipt. An action is officially considered to have been brought on the day the application is received by the court. If the application is sent by post or received by the wrong court it is deemed to have been received on the date of dispatch by post or on the date of receipt by the wrong court. The court verifies the correctness of the application. If an application is irregular or if not all the required documents have been attached, the plaintiff is requested to resolve the discrepancies within a week and is informed whether they are eligible for legal aid. When the plaintiff's address is not indicated and is not known to the court, the message is communicated by displaying a notice at a designated location in the court for a period of one week. Where the plaintiff fails to resolve the discrepancies in good time, the application, along with its annexes, is returned. If the plaintiff's address is unknown, the application is kept in the court registry so that it can be made available to the plaintiff. The same applies when discrepancies in the application are ascertained during the course of proceedings. The action is considered to have been brought on the date of receipt of the amended application.
If, when verifying the application, the court finds it inadmissible, it returns the application.

The return of the application to the plaintiff does not preclude re-submission of the application to the court, but in these cases the action is considered to have been brought on the date on which the application was re-submitted.
The judicial authorities do not send a special document confirming that the case has been properly lodged, but certain procedures are performed which demonstrate that this is the case. The respondent is requested to file a written reply within a specified time limit and is told what information it must contain. The respondent is also advised of the consequences if they fail to reply or exercise their rights, and of the possibility to use legal aid, if the respondent needs and is entitled to such aid. The respondent's written reply should contain: an indication of the court and the case number; the name and address of the respondent and their legal representative or agent, if applicable; the respondent's position as regards the admissibility and merits of the application; the respondent's position as regards the circumstances on which the application is based; arguments against the application and the circumstances underpinning those arguments; the signature of the person who filed the reply. In the reply to the application, the respondent must indicate what evidence they are submitting and what facts they intend to prove by it and present all written evidence at their disposal. The reply must be accompanied by a power of attorney when the reply is submitted by an agent; copies of the reply and its annexes, one for each plaintiff. If, within the time limit laid down, the respondent fails to submit a written reply, present a position, raise objections, contest the veracity of a document submitted with the application or fails to exercise their rights to bring a counter-application, incidental application or to call on a third party entitled to intervene on their behalf, they forfeit the possibility of doing so at a later date, unless their omission is due to specific unforeseen circumstances.
After verifying the correctness and admissibility of the submitted applications, the court decides how to proceed with the action and answers requests and objections from the parties concerning all pre-trial matters and the admissibility of evidence. The court may also order mediation or other means of voluntary dispute resolution.
The court schedules an open hearing in the case, to which it summons the parties. The court clerk sends summons to the parties to whom a copy of the court decision is served.
In commercial cases the Code of Civil Procedure provides for a mutual exchange of documents between the opposing parties. Once the reply has been received, the court sends a copy, together with the annexes, to the plaintiff, who may submit an additional application within two weeks. In the additional application the plaintiff may supplement and clarify the original. After receipt of the additional application, the court sends a copy, together with the annexes, to the respondent, who may file a reply within two weeks. In the additional reply, the respondent must reply to the additional application.
After checking the correctness of the documents exchanged and the admissibility of the applications submitted, including their amounts and other requests and objections from the parties, the court decides any pre-trial matters and the admission of evidence. The court fixes the date of the case in open court, to which it summons the parties by sending to the plaintiff the additional reply, and it communicates its decision to the parties. It may order mediation or other means of voluntary dispute resolution. When all the evidence has been presented via the exchange of documents and when it is agreed that it is not necessary for the parties to attend the hearing, and if the parties so wish, the court may hear the case in camera, giving the parties an opportunity to submit written defences and replies.
The Code of Civil Procedure includes special provisions governing certain procedural rules — summary proceedings, proceedings in matrimonial cases, civil status matters, judicial disability, judicial partition, protection and re-establishment of ownership rights over property, deeds, collective litigation and petitions for a writ of execution, precautionary proceedings, applications for protection, and enforcement proceedings. Special rules are enshrined in the Commercial Act on insolvency proceedings and related applications.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

Where an open hearing has been scheduled in closed session, the court summons the parties to the case hearing. If the case is adjourned in open court, parties who have been duly summoned do not receive a summons to the next hearing if the date has been communicated to them at the open hearing. The summons is issued no later than one week before the hearing. This rule does not apply in the enforcement process. The summons includes: the court issuing it, the name and address of the person summoned, in which case and in what capacity they are being summoned, the place and time of the hearing and the legal consequences of failing to appear.
The court provides the parties with a copy of any decisions which are subject to a separate appeal.
The parties receive notification of the time limits set by the court for the performance of proceedings, but not of the time limits laid down by law, except for the time limits for appealing against a court decision. The court is obliged to state in any judicial decision the authority before which an appeal may be brought and the time limit for doing so.

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