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Small claims

Hungary

Article 25 1 (a) Competent courts

Under Section 599 of *Act CXXX of 2016 on the Code of Civil Procedure*, the European Small Claims Procedure falls within the competence and exclusive territorial jurisdiction of the district court operating at the seat of the General Court, and of the Buda Central District Court (Budai Központi Kerületi Bíróság) in Budapest.

Article 25 1 (b) Means of communication

With respect to commencing proceedings, *Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure* ('the Regulation') provides that the claimant commences the European Small Claims Procedure by filling standard claim Form A, as set out in Annex I, and lodging it with the court or tribunal with jurisdiction directly, by post or by any other means of communication, such as fax, email, or any other electronic means acceptable to the Member State in which the procedure is commenced (Article 4(1) of the Regulation).

It follows from the rules of the Regulation that the request may be submitted in writing. Standard claim Form A, may be submitted to the court, sent to the court by post, and may be submitted by electronic means, in keeping with Article 25(1)(d) of the prospectus.

Section 600(1) of the Code of Civil Procedure provides The claimant may present the claim orally at the district court of jurisdiction, which the court records using the prescribed standard form. This provision is in line with Article 11 of the Regulation, which provides for practical assistance in filling in the forms.

Article 25 1 (c) Authorities or organisations providing practical assistance

Section 6 of *Decree No 14/2002 of 1 August 2002 of the Minister for Justice on the rules of court administration* provides that the office receives clients during the period specified by the president of the court or, in the case of district courts, the president of the regional court. An information board is displayed in a publicly accessible place at the court, indicating where and when clients may present their requests or complaints; when and where they may seek information; who is entitled to receive submissions, when and in which room; and pointing out that submissions may also be placed in the mailbox at the court. The court may also provide information by electronic means and may publish it on the internet.

Pursuant to Decree No 14/2002 on the rules of court administration, the courts provide practical assistance to clients during office hours, and further information is available on <http://www.birosag.hu/>.

Under *Act LXXX of 2003 on legal aid*, legal assistants provide, inter alia, legal advice to clients or prepare submissions or other documents, the fees and costs of which are paid or advanced to legal assistants by the State instead of the client. Aid is subject to clients seeking legal advice on their procedural rights and obligations, or preparing a submission with a view to making subsequent legal statements in the case. Clients must belong to the groups of persons specified in Sections 4 to 9 of Act LXXX of 2003, their income may not exceed the amounts specified in those sections, and they may not be subject to the conditions set out in Section 10 of Act LXXX of 2003 excluding eligibility for aid.

If a procedure is already pending, Section 11(1) of Act LXXX of 2003 provides that, within the framework of legal aid, the State provides legal representation to the claimant, the defendant, the intervenor (third party), the interested party, the petitioner and the respondent, and, in keeping with the above-mentioned provisions, advances or bears the costs thereof on behalf of the client. In addition to the conditions laid down in Act LXXX of 2003, clients are considered eligible even if they are exempted from payment. Clients are eligible for aid if, due to their lack of legal expertise or the intricacy of the case, they would not be able to represent their interests or assert their procedural rights effectively if they proceeded personally.

Article 25 1 (d) Means of electronic service and communication and methods for expressing consent for thereof

Article 13 of the Regulation sets out rules on the service of documents and other written communications.

In order to ensure that communication with the court in court proceedings is carried out as comprehensively as possible and preferably electronically, the Code of Civil Procedure makes electronic communication with the court possible and partly mandatory. Under the Code of Civil Procedure, in keeping with the provisions of point (e), clients or their representatives may choose to communicate electronically, or, if they are required to do so, they must communicate with the court by electronic means.

Clients communicating electronically send the request form, as well as all other submissions and documentary evidence, to the court using the form submission support service (by filling in electronic forms that meet technical specifications and by successfully identifying themselves electronically).

Electronic communication with the courts takes place through three channels of communication:

- Mailbox requiring registration in the Central Customer Registration System (a storage space considered as a secure service address available for personal administration; formerly the Customer Gateway),
- Official Mailbox (reserved for the official electronic communication for administrative bodies),
- Company Portal (a storage space considered as a secure service address available for business organisations and individual lawyers, European Community lawyers and individual patent attorneys).

Any natural person may apply for registration in the **Central Customer Registration System** with the registration body (in Government customer service offices, Government information offices (Kormányablak), tax authority customer service offices, embassies and some post offices), or electronically, with a valid identity card issued after 1 January 2016. Personal registration requires an official document confirming identity (ID, passport, driving licence in card format) and an email address. Foreign nationals not covered by the personal data and address register are identified by means of their passport or, where applicable, residence permit. Nationals of EEA Member States not covered by the personal data and address register are identified by means of their passport or other official document confirming their identity. At the time of registration, clients must prove their identity and sign a statement consenting to the processing of their data. Subsequently, the Central Office verifies the data provided in the personal data and address register (or, in the case of aliens not covered by it, in the aliens' register). In addition to these data, a unique user name and an email address are also required, as the natural person is sent to that address the one-time code necessary for the first login.

The common feature of the Company Portal and the Official Mailbox is that users must have specific rights to use them. **The Official Mailbox** may be used by organisations joining the Central System. The **Company Portal** service may be used by business organisations and legal representatives.

Clients communicating electronically must send their submission by means of a **form** where the President of the National Office for the Judiciary has provided one. If no form is provided, clients communicating electronically must upload their submission and its attachment(s) in one of the file formats accepted by the

President of the National Office for the Judiciary and published on the central website of the courts (<http://www.birosag.hu/>). To download the forms, clients need to have installed special form-filler software (Általános Nyomtatványkitöltő Keretprogram (ÁNYK)) for filling in the forms and uploading electronic documents as attachments. The submission and its attachments must be sent to the court electronically signed or authenticated by means of an identification-based document authentication service. The central website of the courts provides practical information for filling in the form. If submissions do not meet IT requirements, clients communicating electronically are notified directly as part of the submission process. If submissions uploaded by clients communicating electronically meet IT requirements, they are sent an **acknowledgement of receipt** by means of the service system. The submission is deemed to have been served on the court at the time indicated therein.

The court sends clients communicating electronically a **certificate of receipt** of all submissions, via the service system (automatically). (Section 75/C of Decree No 14/2002 on the rules of court administration).

Clients communicating electronically are notified by email of the receipt of documents, and access the documents by clicking on link to the document. Clicking on the link creates an **electronic acknowledgement of receipt** indicating the name of the sender and the addressee, the number of the case and the date of receipt of the document, and is sent both to the court and to the clients communicating electronically. The electronic acknowledgment of receipt and the postal acknowledgment of receipt referred to in Code of Civil Procedure meet the requirements of acknowledgments of receipt in Article 13(1) of the Regulation. If the service system indicates that the document has not been received despite being notified twice, it will be deemed to have been served on the fifth working day following the date indicated in the second notification certificate.

Article 25 1(e) Persons or professions, obliged to accept service of documents or other written communications by electronic means

Article 13 of the Regulation sets out rules on the service of documents and other written communications.

In order to ensure that communication with the court in court proceedings is carried out as comprehensively as possible and electronically in as many cases as possible, the Code of Civil Procedure makes electronic communication with the court possible and partly mandatory.

According to the referential rule set out in Section 608 of the Code of Civil Procedure, the groups of persons communicating electronically are listed in *Act CCXII of 2015 laying down general rules on electronic administration and trust services*.

Section 9 (1) of Act CCXII of 2015, unless otherwise provided for in an Act or an international treaty by virtue of commitment under international treaty, electronic communication is mandatory for

(a) the following when acting as clients:

- (aa) economic operators,
- (ab) the State,
- (ac) local governments,
- (ad) budgetary bodies,
- (ae) the public prosecutor,
- (af) notaries,
- (ag) public sector bodies,
- (ah) other administrative authorities not covered in points (ac)–(ag); and
- (b) the legal counsels of clients.

Under Sections 608(2) and 75(1) of the Code of Civil Procedure, the following are considered to be legal representatives:

- (a) attorneys and law firms;
- (b) bar association legal counsels in cases defined by the Act on Legal Practice;
- (c) a judge and court secretary authorised to represent the court vested with legal personality;
- (d) a public prosecutor empowered to represent the Prosecutor General's Office;
- (e) trainee lawyers and legal rapporteurs (if they are permitted to act in the lawsuits under the Code of Civil Procedure), and
- (f) other persons defined by legislation.

Article 25 1 (f) Court fees and the methods of payment

Section 74(1) of *Act XCIII of 1990 on duties* gives the party initiating the procedure the choice – provided the technical conditions exist for this – of paying all court fees electronically through the electronic payment and settlement system, rather than by revenue stamps, in respect of all court proceedings (whether initiated on paper or by electronic means). The electronic payment and settlement system is a central electronic payment service (with the associated settlement system) that allows clients to meet their payment obligations to the bodies providing electronic administration, including electronically, using by bank card, virtual bank card or internet banking, in the course of electronic administration.

According to Section 42(1) of Act XCIII of 1990 on duties, the general rate of court fees is 6% of the value of the subject-matter of the dispute in contentious proceedings and 3% of the value of the subject-matter of the dispute in non-contentious proceedings. Under Section 46(1) of Act XCIII of 1990, appeals against judgments incur a fee of 8% of the value of the subject-matter of the dispute.

Article 25 1 (g) Appeal procedure and courts competent for an appeal

The ordinary remedy relevant for the purposes of the Regulation is the appeal, and extraordinary remedy is the retrial and the request for review.

The second-instance procedure is brought by the appellant by means of an **appeal** lodged in writing at the court of first instance. Parties and persons in relation to whom the decision contains a provision may appeal against the part of the provision relating to them. The deadline to submit an appeal is fifteen days following the date the decision was notified.

The appeal must indicate the number of the judgment contested in the appeal and the provision or part of the judgment contested in the appeal, a firm request that the contested provision or part of the judgment of first instance be amended or annulled by the court of second instance, the substantive or procedural infringement on which the appellant bases its appeal, unless the exercise of the power of review is not conditional on the violation of the law. The appeal must, as a general rule, be decided by the court of second instance without a hearing, unless either of the parties requests that a hearing be held, the court considers it justified, or evidence must be taken to be used at a hearing. A motion for **retrial** may be submitted against a final judgment and any decision having the same effect if:

- (a) the party presents any fact or evidence, or any final court or other official decision that the court did not take into consideration during the action, provided that it would have resulted in a more favourable decision for him had it been considered originally;
- (b) the party lost the action in consequence of any crime committed by a judge who took part in giving the judgment, or by the opposing party or any other person, contrary to the law;

(c) the party refers to a judgment of the European Court of Human Rights given in his own case, establishing an infringement of any right provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, promulgated by Act XXXI of 1993, and in its additional protocols, provided that the final judgment given in his case is based on the same infringement, and the party received no satisfaction from the European Court of Human Rights, or the injury cannot be remedied by indemnification;

(d) a final judgment has previously been adopted relating to the same right before the adoption of the judgment concerned;

(e) the statement of claim or any other document was delivered to the party by way of public notice in violation of the provisions on service of process by public notification. Section 393 of the Code of Civil Procedure)

A request for retrial is submitted within six months; this time limit begins from the date when the judgment contested has become final, or if the party gained knowledge of the reason for retrial subsequently, or had the opportunity to lodge a motion for retrial thereafter, it begins at that time. No retrial is possible after five years from the date on which the judgment became final; no justification may be provided for failure to comply with this time limit. The request for revision must indicate the judgment against which the retrial is sought and the content of the decision the party wishes to adopt. The request must specify the facts and the evidence on which the retrial is based, and the relevant documents must be attached. If the request is made after six months from the date on which the judgment under appeal becomes final and binding, reasons must be provided.

The request for revision must be submitted in writing to the court of first instance acting in the action. The party may also record the request in the minutes. The court entitled to decide on the retrial must be the court of first instance acting in the main proceeding. Under the Code of Civil Procedure, if retrial is allowed, it must be tried again within the limits of the request. The court upholds the judgment challenged in the request for revision in relation to the result of the retrial of the action; or, while repealing it in whole or in part, adopts a new decision in accordance with the law. Sections 392-404 of the Code of Civil Procedure

Subject to the exceptions laid down by law, a decision on the merits of the court of second instance, which has become final and binding, may be challenged by means of a **review** as an extraordinary action. Unless otherwise provided by law, the subject of the review is a final judgment on the merits of the case or a final and binding decision on the merits of the case.

A review of a final judgment or of a final and binding order on the merits of the case may be requested from the Curia by the party or any person subject to the judgment, against the provision affecting him or her, by making reference to an infringement affecting the merits of the case or to a derogation from a published decision of the Curia regarding a legal issue.

In principle, no review may be made in a property case in which the value contested in the request for review does not exceed HUF 5 million.

However, in the case described above, the Curia may, by way of exception, authorise review if the examination of the infringement affecting the merits of the case is justified by the need to ensure the unity or further development of the case-law, the particular importance of the legal issue raised or its social significance or, in the absence of a decision by the court of second instance, the need for a preliminary ruling from the Court of Justice of the European Union. The party may submit a request for authorisation of the review to the court of first instance within forty-five days of the notification of the judgment. The request for authorisation of the review must specify the judgment against which the party seeks review, the infringement affecting the merits of the case, the precise indication of the law infringed, and the grounds and points of law on which the authorisation is based.

The request for review must be submitted to the court that issued the decision of first instance within forty-five days from the date of notification of the decision. The request for review must meet the general requirements for submissions and must include the attachments set out in Section 413 of the Code of Civil Procedure. As a general rule, the Curia decides on revision requests outside hearings (Section 405–424 of the Code of Civil Procedure).

Article 25 1 (h) Review of the judgment procedure and courts competent to conduct such a review

According to Article 18(1) of the Regulation, the court that issued the judgment in the European Small Claims Procedure has jurisdiction to rule on the request for review. The description of the courts having jurisdiction to conduct the procedure and thus to issue a judgment is provided in the section of the prospectus relating to Article 25(1)(a).

On the basis of Article 19 of the Regulation, the relevant rules of the Code of Civil Procedure also govern the procedure for the request for review, in matters relating to which Article 18 of the Regulation does not provide otherwise.

Among the provisions governing the European Small Claims Procedure, the Code of Civil Procedure contains specific rules concerning the review pursuant to Article 18 of the Regulation (Section 602(1)–(3) of the Code of Civil Procedure) The Code of Civil Procedure expressly states that the rules on the verification of failure to act apply to the review, and excludes the submission of a request for *restitutio in integrum* in the event of failure to comply with the time limit for lodging an appeal on a point of law, and does not allow the right to appeal against the order rejecting the request for review of its own motion. On this basis, the reason for the review and the circumstances on which it is based are set out in the request for review under Article 18 of the Regulation. The request does not have suspensory effect on the enforcement of the judgment. However, if the success of the request appears likely, the court may order the suspension of the enforcement of the decision ex officio without hearing the opposing party. The court may, upon request, amend the decision on the suspension. If review is excluded by law, or if the request is submitted late, the request is rejected without examination of its merits. Before deciding on the request, the court may hear the parties. Whether the preconditions for a request are met is assessed equitably. If the court grants the request, the proceeding is repeated in the necessary framework. An appeal may be submitted against decisions rejecting a request.

Article 25 1 (i) Accepted languages

The Code of Civil Procedure provides that proceedings are conducted in the Hungarian language (Section 113(1) of the Code of Civil Procedure). The Code of Civil Procedure also provides that unless otherwise provided for by law, a binding legal act of the European Union or an international convention, submissions addressed to the court must be filed in Hungarian and submissions and decisions of the court are served in Hungarian. The law also provides that everyone is entitled to use their mother tongue orally in court proceedings, and, within the scope of an international convention, they may use their mother tongue, regional or national minority language. The court appoints an interpreter or translator if it is necessary for the enforcement of these rights or is otherwise necessary under the provisions of this Act relating to the use of languages. Under the special rules on the European Small Claims Procedure, the Pp. provides that the court may order the party to submit a certified translation for any document he has presented only if there is no other way to ascertain the relevant facts of the case (Section 600(5) of the Code of Civil Procedure).

Hungary does not indicate – within its right to do so under in Article 21a(1) of the Regulation – an official language other than its own, which it can accept for the official language of the certificate.

Article 25 1 (j) Authorities competent for enforcement

Enforcement orders in Hungary may be issued, in cases falling within the scope of the Regulation, by the district court operating at the seat of the regional court in the territory of which the debtor is domiciled; in the absence of this, the district court operating at the location of the assets that may be subject to enforcement, at the location of a Hungarian branch office of a company registered abroad, or, in the case of direct commercial representation, at the location of the branch or agency; and in Budapest, the Buda Central District Court.

The court carrying out enforcement is entitled to the measures specified in Article 23 of the Regulation in Hungary. In Hungarian law, the court carrying out the enforcement is the court to which the proceeding independent court bailiff has been appointed.

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