

### 1 Existence of a specific small claims procedure

In Latvia there are special procedures available for small claims where the claim is for recovery of money or for recovery of maintenance and the total amount of the claim does not exceed EUR 2 100.

Claims for small amounts are governed by Chapter 30.3: Sections 250.18 – 250.27 and Chapter 54.1: Sections 449.1–449.12 of the Law on Civil Procedure.

#### 1.1 Scope of procedure, threshold

Small claims procedures apply only to claims for recovery of money and claims for recovery of maintenance (Section 35(1)(1) and (3) of the Law on Civil Procedure).

In proceedings for small claims the principal debt or, in the case of a claim for recovery of maintenance, the total payments may not exceed EUR 2 100 on the day of submission of the claim. In the case of claims for recovery of maintenance, the ceiling on the total amount of payments applies to each child separately, and the total amount is the total amount to be paid within one year.

The provisions governing small claims in the domestic legislation do not apply to the procedure for small claims under Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, except with respect to the procedure for appealing decisions of a court of first instance. Claims for recovery of maintenance in cross-border matters within the European Union are subject to Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

The State fee (*valsts nodeva*) to be paid for an application is 15 % of the sum claimed, but no less than EUR 71.41. In the case of claims for recovery of maintenance for a child or a parent, no State fee needs to be paid.

#### 1.2 Application of procedure

In adjudicating small claims the court follows the ordinary court procedures with certain exceptions laid down for small claims. The court begins considering the case on the basis of a written application.

The court will not proceed on an application if the application is not drawn up in compliance with Section 250.20 of the Law on Civil Procedure – the plaintiff has not used the model for claims for small amounts, or has failed to indicate whether he or she requests a court hearing to consider the matter.

In that case a judge takes a reasoned decision not to proceed on the application, sends it to the plaintiff, and sets a timelimit for the rectification of deficiencies. This timelimit cannot be less than 20 days starting from the day of posting of the decision. The judge's decision may be appealed within 10 days, or within 15 days if the person's place of residence is outside Latvia.

#### 1.3 Forms

An application and the defendant's observations must be drawn up on the forms laid down by Cabinet (*Ministru kabinets*) Regulation No 783 of 11 October 2011 on forms to be used in claims for small amounts. The annexes to the Regulation include the following forms:

Application for a small claim for recovery of money;

Application for a small claim for recovery of maintenance;

Observations on an application for a small claim for recovery of money;

Observations on an application for a small claim for recovery of maintenance.

The Regulation is available on the legislation portal of the official gazette, *Latvijas Vēstnesis*: <http://www.tiesas.lv>.

In addition to particulars of the plaintiff and the defendant, the following information is to be given on the small claims form:

The name of the district or city court (*rajona (pilsētas) tiesa*) to which the application is submitted: unless the parties have agreed by contract that any dispute is to be heard in another place, a claim against a person must be brought in the court of their declared place of residence, or in the case of a legal person the place of the registered office (if the claim is in connection with the activities of a branch or agency of a legal person, a claim may also be brought in the place where the branch or agency is situated).

Information on which court has jurisdiction, and thus which court has to be indicated on the form, can be found on the internet portal <https://www.tiesas.lv/>, section *Tiesas* ('courts'), *Tiesu darbības teritorijas* ('territorial jurisdiction of courts').

The plaintiff's representative is to be indicated if the plaintiff wants his or her interests to be represented in court by another person. For another person to be able to act as a representative in court, a power of attorney (*pilnvara*) has to be drawn up, certified by a notary, and indicated in the column that states the basis of representation. If the representative is a certified lawyer (*zvērināts advokāts*), the representation must be confirmed by a retainer (*orderis*), and if the lawyer is to act on the party's behalf, there must be a written power of attorney (which in this case does not need to be signed by a notary).

Subjectmatter of the claim: the form must indicate the contested rights and the legal relationships between the plaintiff and the defendant whose existence or nonexistence the plaintiff is asking the court to confirm, requesting the court to protect his or her rights or interests protected by law.

The method of calculation of the amount claimed: a small claims form must show the principal debt, i.e. the amount of the debt before interest and contractual penalties, the amount of any contractual penalties, any interest due under the contract or by law, and the sum of all these items.

The form should indicate the facts on which the plaintiff bases his or her claim and supporting evidence, the specific provisions of law on which the claim is based, and, finally, the measure that the plaintiff asks the court to take.

The application must be signed by the plaintiff or his or her representative, or the plaintiff together with the representative if the court so requires. Documents should be attached to the application showing that any procedures regarding preliminary extrajudicial examination of the matter that are required by law have been complied with, and substantiating the facts on which the claim is based.

#### 1.4 Assistance

The Law on Civil Procedure does not make any special provision for legal assistance with small claims. A person may be represented in a small claims case. If the plaintiff wants his or her interests to be represented in court by another person, and the application is made by the representative, the application must state the representative's given name, surname, personal identity number and address for correspondence with the court or, if the representative is a legal person, the registration number and registered office thereof. Any natural person may be a representative in civil proceedings provided they have reached

18 years of age, are not placed under guardianship, and are not subject to any of the restrictions specified in Section 84 of the Law on Civil Procedure. If another person is to act as a representative in court, they must be authorised to do so by the party concerned, by means of a power of attorney certified by a notary. The person to be represented may give a verbal authorisation in court entitling another person to act on their behalf, and this needs to be noted in the minutes of the court hearing. A representative of a legal person must have a written power of attorney or documents confirming that the person is an officer entitled to represent the legal person without special authorisation. If the representative is a certified lawyer, the representation must be confirmed by a retainer, and if the lawyer is to act on the party's behalf there must be a power of attorney (which in this case does not need to be certified by a notary). If a person is represented, the necessary documents are submitted to the court and signed by the representative acting on the person's behalf in compliance with the power of attorney.

### **1.5 Rules concerning the taking of evidence**

The taking of evidence is subject to the general provisions of the Law on Civil Procedure. Accordingly, in proceedings for small amounts, evidence may take the form of observations by the parties or by third parties, statements by witnesses, written evidence and expert opinions.

### **1.6 Written procedure**

A judge initiates proceedings on a small claim on the basis of a written application. The defendant is sent a copy of the application, copies of the documents attached to it, and a form for observations: any observations the defendant may wish to make must be submitted within 30 days. The court also informs the defendant that the absence of any observations on the defendant's part will not prevent judgment from being given in the case, and that the defendant may ask for a full hearing in court. When the court sends the documents to the parties it will explain their procedural rights, inform them of the composition of the court that is to consider the case, and explain how a party may object to a judge. The Law on Civil Procedure gives the parties procedural rights with regard to the preparation of the case for trial, which they may exercise no later than seven days before the date set for the adjudication of the matter.

The defendant may submit his or her observations on a form approved by the Cabinet. The form is one of those in the Annex to Cabinet Regulation No 783 of 11 October 2011 on forms to be used in claims for small amounts (the form is available on the Latvian courts portal: <http://www.tiesas.lv/index.php?id=27>). In his or her observations the defendant must provide the following information:

- the name of the court to which the observations are submitted;
- the given name, surname, personal identity number, and declared place of residence of the plaintiff, or failing that the plaintiff's de facto place of residence; or in the case of a legal person the name, registration number and registered office thereof;
- the given name, surname and personal identity number and the declared place of residence of the defendant with any additional address declared by the defendant, or failing that the defendant's de facto place of residence; in the case of a legal person, the name, registration number and registered office thereof; in addition, the defendant may also indicate another address for correspondence with the court;
- the case number and subjectmatter of the claim;
- whether he or she admits the claim, in whole or in part;
- his or her objections against the claim, the grounds on which they are based, and the legal provisions on which they are based;
- evidence corroborating his or her objections against the claim;
- submissions asking the court to require evidence;
- whether the defendant wishes to recover the court costs;
- 10. whether the defendant wishes to recover expenses relating to the conduct of the case, indicating the amount and appending documents substantiating the amount;
- 11. whether the defendant requests that the case be tried at a court hearing;
- 12. any other circumstances that the defendant considers as important for the adjudication of the case;
- 13. any other requests;
- 14. a list of the documents appended to the observations;
- 15. the time and place at which the observations were drawn up.

A defendant is entitled to bring a counterclaim, within 30 days of the day when the application is sent to the defendant, if: 1) a mutual set-off is possible between the claims in the initial action and the counterclaim; 2) allowing the counterclaim would prevent the court from allowing all or part of the claims in the initial action; 3) the counterclaim and the initial action are mutually related, and the matter can be dealt with more quickly and more correctly if they are considered together. The case will be adjudicated in accordance with the procedure for small claims if the counterclaim is itself a small claim, i.e. is within the permissible ceiling and is formulated accordingly.

If the sum sought in the counterclaim is above the ceiling for small claims, or if the counterclaim is not a claim for the recovery of money or maintenance, the court will consider the case in accordance with the ordinary court procedures.

If the parties do not request that the case be considered at a court hearing and the court does not believe that a hearing is necessary, small claims are adjudicated by written procedure, and the parties are notified in good time of the date when a copy of the judgment can be obtained in the court secretariat. This date is then considered to be the date when the full judgment is drawn up.

The court will consider the case at a hearing in accordance with the ordinary court procedures if any party so requests or if the court believes that a hearing is necessary.

If a person's place of residence or whereabouts is not in Latvia and their address is known, the delivery and service of court documents is conducted in accordance with the international laws binding on Latvia with the legislation of the European Union, and in particular the procedure laid down in Article 13 of Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 **establishing a European Small Claims Procedure**.

### **1.7 Content of judgment**

A court judgment is given by issuing a copy of the judgment to the parties immediately after the judgment is drawn up.

A copy of the judgment may be sent by post or, if it is possible, in some other way in accordance with the procedures for the delivery and service of judicial documents laid down in the Law on Civil Procedure. A copy of the judgment must be sent immediately after the date on which the full judgment is drawn up. The timelimits are not affected by the date on which the judgment is received.

The judgment on a small claim has to comply with the ordinary provisions of the Law on Civil Procedure regarding the content of judgments. A judgment consists of four parts:

The introductory part states that the judgment is given in the name of the Republic of Latvia, and indicates the date when the judgment was given, the name of the court giving judgment, the composition of the court, the clerk attending the court sitting, the parties to the case and the subject-matter of the dispute. A descriptive part sets out the claim put forward by the plaintiff, any counterclaim put forward by the defendant, any objections raised, and the substance of the observations submitted by the parties.

The grounds of judgment state the facts established in the case, the evidence on which the court's findings are based, and the reasons for which any evidence has been rejected. This part also sets out the laws and regulations that the court has applied, a judicial assessment of the facts, and the court's

findings regarding the validity or invalidity of the claim. If the defendant has accepted the claim in full, the grounds of judgment indicate only the laws and regulations that the court has applied.

The operative part states whether the court upholds the application, in whole or in part, or dismisses it, in whole or in part, and spells out the substance of the judgment. It also specifies by whom court costs are to be paid and in what proportion, any timelimit for voluntary compliance with the judgment, the timelimit and procedures for any appeal, and the date of drawing up of the full judgment.

Parties to the case may appeal a judgment on a small claim on any of the grounds for appeal listed in the Law on Civil Procedure.

### **1.8 Reimbursement of costs**

Claims for small amounts are subject to the general rules regarding the payment of court costs.

When a judgment is given it will order the unsuccessful party to pay all of the successful party's court costs. If the application is upheld only in part, the defendant will be ordered to pay the plaintiff's court costs in proportion to the claims upheld, and the plaintiff will have to pay the defendant's court costs in proportion to the claims dismissed. There is no recovery of the State fee (*valsts nodeva*) for an ancillary objection (*blakus sūdzība*) against a decision of the court or, where a judgment was previously given in default of appearance, for an application seeking to have the proceedings reopened and the case tried afresh.

If a plaintiff discontinues an action, he or she has to reimburse the court costs incurred by the defendant. In that case the defendant does not reimburse the court costs paid by the plaintiff, but if a plaintiff discontinues the action because the defendant voluntarily satisfies the claim after the application is submitted, the court may at the plaintiff's request order the defendant to pay the plaintiff's court costs.

Likewise, if an action is left unadjudicated, the court may at the defendant's request order the plaintiff to pay the defendant's court costs.

If a plaintiff is exempted from court costs, the defendant may be ordered to pay court costs to the State in proportion to the part of the application that has been upheld.

### **1.9 Possibility to appeal**

An appeal (*apelācija*) may be brought against a judgment of a court of first instance if:

the court has applied or interpreted a rule of substantive law incorrectly, and this has led to an incorrect adjudication of the case;

the court has infringed a rule of procedural law, and this has led to an incorrect adjudication of the case;

the court has made incorrect findings of fact or incorrectly assessed evidence, or provided an incorrect legal assessment of the circumstances of the case, and this has led to an incorrect adjudication of the case.

If a small claim has been adjudicated by written procedure, the timelimit for appealing the judgment runs from the day the judgment is drawn up.

In addition to the points specified in the Law on Civil Procedure, an appeal claiming that a judgment is defective must indicate the following:

which rule of substantive law has been applied or interpreted incorrectly by the court of first instance, or which rule of procedural law it has infringed, and how this has affected the adjudication of the case;

which of the findings of fact made by the court of first instance are incorrect, which evidence has been incorrectly assessed, how it can be seen that the legal assessment of the circumstances of the case is faulty, and how this has affected the adjudication of the case.

A judge of the court of first instance decides whether the appeal should proceed further: if the appeal does not comply with the requirements of the Law on Civil Procedure, or all the necessary copies have not been appended, or properly certified translations of the appeal and of the copies of appended documents have not been supplied where required, the judge will set a timelimit within which the deficiencies must be rectified.

If the deficiencies are rectified within the time allowed, the appeal is deemed to have been submitted on the day when it was submitted for the first time.

Otherwise it is deemed never to have been submitted, and is returned to the applicant.

An appeal which is not signed, or which is submitted by a person who has not been properly authorised to bring it, or for which the State fee has not been paid, will not be accepted and will be returned to the applicant. A decision refusing to accept an appeal cannot be challenged.

Having satisfied himself or herself that the procedures for submission of appeals have been complied with, a judge of the appeal court takes a decision to initiate the appeal proceedings within 30 days of receipt of the appeal; in some cases this decision is taken by three judges collegially.

Provided at least one of the possible grounds for appeal is present the judge takes the decision initiating the appeal proceedings and notifies the parties without delay, indicating the timelimit for the submission of written observations.

If the judge appointed to take the decision on an appeal considers that appeal proceedings should not be initiated, the question is decided by three judges collegially.

If at least one of the three judges is of the opinion that at least one of the possible grounds for initiating appeal proceedings is present, the judges take a decision to initiate appeal proceedings, and notify the parties immediately.

If the judges unanimously take the view that none of the grounds for initiating appeal proceedings is present, they take a decision refusing to initiate the appeal proceedings, and notify the parties immediately. This decision is in the form of a resolution (*rezolūcija*) and cannot be challenged.

Within 20 days of the day when the appeal court notifies the parties that proceedings have been initiated, the parties may submit written observations on the appeal, supplying a number of copies equal to the number of parties.

After notification of the initiation of the appeal proceedings, a party has 20 days in which to submit a crossappeal. If a crossappeal is received the court will send copies to the other parties.

In small claims cases appeals are usually adjudicated by written procedure; the parties are notified in good time regarding the date when a copy of the judgment can be obtained at the court secretariat, and are informed of the composition of the court and of their right to object to a judge. A judgment is deemed to be drawn up on the day that a copy can be obtained at the court secretariat. But if the court considers it necessary, an appeal regarding a small claim may be adjudicated at a court hearing.

A judgment of an appeal court cannot be appealed on point of law, and takes effect when it is pronounced or, if it is adjudicated by written procedure, the date on which it is drawn up.

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