

1 Existence of a specific small claims procedure

Articles 1025-1032 of the new Code of Civil Procedure, which entered into force on 15 February 2013, specifically regulate this **small claims procedure**.

1.1 Scope of procedure, threshold

Article 1025 of the new Code of Civil Procedure **states that** the value of the claim, free of interest, litigation costs and other ancillary revenues, must not exceed the amount of RON 10 000 on the date of referral to court.

In terms of its scope (*ratione materiae*), **the small claims procedure cannot be applied** in fiscal, customs or administrative matters or in regard to the state's liability for acts or omissions in the exercise of public powers. Likewise, the procedure does not apply to claims regarding: marital status or the capacity of natural persons; property rights arising from family relations; inheritance; insolvency, arrangement with creditors, procedures involving liquidation of insolvent companies and of other legal persons or other similar procedures; social insurance; labour law; renting of immovable assets, except for proceedings involving debts and the payment of money; arbitration; breach of the right to privacy or of rights regarding personality.

1.2 Application of procedure

In the new Code of Civil Procedure, the **small claims procedure has an alternative nature**. The claimant may choose between **the small claims procedure** and the ordinary court procedure. If the claimant has come before court by lodging a claim, it is settled under the ordinary procedure, unless the claimant, no later than the first hearing, expressly requests application of a special procedure. When a claim cannot be settled in accordance under a **small claims procedure**, the court serves the claimant notice of this and if the claimant does not withdraw his or her claim, it will be dealt with under the ordinary law. The first instance competent court to settle the claim is the district court. Territorial competence is established under ordinary law.

1.3 Forms

Order No 359/C of 29 January 2013 of the Minister for Justice approving the forms used in the small claims procedure provided for by Articles 1025-1032 of Law No 134/2010 on the Code of Civil Procedure provides for a mandatory standard form for the small claims procedure. The standard forms are: application form, the form amending or/and correcting the application form, and the response form.

1.4 Assistance

It is provided within the limits of the active role exercised by the judge, not specifically for this type of case.

1.5 Rules concerning the taking of evidence

The court may also admit other items of evidence besides the submissions of parties. However, the items of evidence that are disproportionately expensive to administer compared to the value of the claim or the counterclaim lodged are not admitted.

1.6 Written procedure

Article 1028 and ff. of the new Code of Civil Procedure state that a claimant initiates a small claims procedure by completing the application form and submitting or dispatching it to the competent court by mail or by any other means that ensures transmission and acknowledgment of receipt. Copies of submissions that the claimant may intend to use are also submitted or dispatched with the application form. If the information provided by the claimant is either not sufficiently clear or inadequate, or the application form has not been filled in accurately, the court offers the claimant the possibility of completing or correcting the form or to submit additional information or documents, except in cases where the claim is manifestly unsubstantiated or inadmissible. A claim is dismissed if it is manifestly unsubstantiated or inadmissible. If the claimant fails to complete or correct the application form within the deadline set by the court, the claim is set aside.

The small claims procedure is written and conducted entirely in chambers. The court may order the parties to appear in court if it deems that their presence is required or at either party's request. The court may refuse such a request when it considers that no oral debates are necessary given the circumstances of the case. The reasons for refusal are given in writing and may not be appealed.

After having received an accurately completed application form, the court will send the response form to the defendant, together with a copy of the application form and copies of the claimant's submissions. The defendant has to submit the response form duly completed within 30 days from the service of documents, as well as copies of documents he or she intends to use. The defendant may reply by any other adequate means without using the response form. The court will immediately serve the claimant copies of the defendant's response, the counterclaim, if applicable, and the defendant's submissions. If the defendant has filed a counterclaim, the claimant must submit the duly-completed response form or reply by any other means within 30 days from the date when it was served. A counterclaim, which cannot be dealt with under this procedure, will be disjoined and settled under the ordinary law. The court may request that parties provide further information within the time limit set for this purpose, which may not exceed 30 days from the receipt of the defendant's or, where applicable, the claimant's response. If the court has set a time limit for the parties to appear before the court, they must be served a writ of summons. Whenever the court has set a time limit for completion of a procedural step, it notifies the interested party of the consequences of not observing that time limit. The court will deliver its judgment within 30 days of receipt of all the information required or, where applicable, of the oral hearing. If no response is received from the interested party within the time limit, the court will deliver a judgment on the main claim or the counterclaim in connection with the acts enclosed with the case file. The judgment delivered by the first instance court is enforceable from the date of its issue and is served to the parties.

1.7 Content of judgment

No

1.8 Reimbursement of costs

Article 1031 of the new Code of Civil Procedure states that the unsuccessful party is held liable to pay litigation costs at the other party's request. However, the court will not grant unnecessary expenses to the successful party or expenses that are disproportionate to the value of the claim.

1.9 Possibility to appeal

Article 1032 of the new Code of Civil Procedure provides that a court judgment is only subject to appeal before the tribunal within 30 days from being served. If grounds exist, the appeal court may suspend enforcement provided that a bail is set for 10 % of the contested value. The decision of the appeal court is served to the parties and is final.

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