European payment order

France

1 Existence of an order for payment procedure

Provision is made for a simplified order for payment procedure, known as the '*procédure d'injonction de payer*', in Articles 1405 to 1425 of the Code of Civil Procedure.

1.1 Scope of procedure

1.1.1 What types of claims are eligible (e.g. only pecuniary claims, only contractual claims etc.)?

The procedure is available for the recovery of all claims of contractual origin, or resulting from an obligation imposed by the rules governing a profession or occupation, and of fixed amount.

1.1.2 Is there an upper limit regarding the value of the claim?

The procedure is available for the recovery of all claims of contractual origin, or resulting from an obligation imposed by the rules governing a profession or occupation, and of fixed amount.

1.1.3 Is the use of that procedure optional or obligatory?

The procedure is optional.

1.1.4 Is the procedure available if the defendant lives in another Member State or in a third country?

Proceedings of this kind must be brought before the court with jurisdiction for the place of residence of the debtor or one of the debtors concerned, which excludes recourse to the procedure when the sole debtor lives abroad.

1.2 Competent court

The application must be brought before the district court (*tribunal d'instance*), the local court (*juridiction de proximité*), the president of the commercial court (*tribunal de commerce*) or, from 1 January 2013, the president of the regional court (*tribunal de grande instance*), depending on which court has jurisdiction in a case of the kind at issue.

The court of the place of residence of the debtor or one of the debtors against whom proceedings are brought has exclusive jurisdiction. This is a rule of public policy (*ordre public*), and the court must raise any question of lack of jurisdiction of its own motion.

1.3 Formal requirements

1.3.1 Is the use of a standardised form obligatory? (if yes, where can that form be obtained?)

The formal requirements list certain information that must be included in the application:

the surnames, first names, professions and home addresses (*domiciles*) of the creditors and debtors, or, for legal persons their form, name and registered office;

a precise indication of the amount claimed, with the breakdown of the various components of the claim, and its basis.

There is a form which though not compulsory is strongly recommended. This is a CERFA form available from the Ministry of Justice website and from the clerk's office (*greffe*) of all the courts concerned.

1.3.2 Is representation by a lawyer required?

The application can be submitted by the creditor himself or herself or by any representative.

1.3.3 In how much detail do I have to describe the reason for the claim?

The reason for the claim does not have to be presented in detail, but only in summary (see reply 1.3.1 above).

1.3.4 Is it necessary to present written evidence of the claim at issue? If yes, which documents are admissible as proof?

The application must be accompanied by supporting documents showing the validity of the claim (invoices, lease agreement, contract of sale, credit agreement, statements, etc.). The rules of ordinary law governing civil procedure are applicable.

1.4 Rejection of application

Before issuing an order to pay the court will examine the validity of the application and may reject it, in whole or in part, if it deems that the claim is not well-founded.

1.5 Appeal

If the application is rejected the creditor has no right of appeal, but is free to follow the procedures of ordinary law, i.e. to sue for payment of a debt in the ordinary way.

1.6 Statement of opposition

The debtor has a period of one month in which to object (*former opposition*), either in person at the clerk's office of the court which issued the order or by registered letter addressed to the same clerk's office. There are no other requirements of form for such objection .

1.7 Effect of statement of opposition

The submission of an objection initiates proceedings. The clerk of the court summons all the parties to a hearing (even those who have not entered an objection). Within the limits of the jurisdiction given to it, the court will consider not only the initial application but also any ancillary applications and pleas in defence on the merits.

1.8 Effect of lack of statement of opposition

1.8.1 What needs to be done in order to obtain an enforceable decision?

After a period of one month following notification has passed, the creditor applies to the clerk's office of the court which issued the order, asking it to append an order for enforcement. There are no formal requirements for this application (the creditor may simply make a statement or send a letter by ordinary post). The enforcement order confers on the order for payment all the effects of a judgment in a defended case.

1.8.2 Is this decision final or is there still a possibility for the defendant to appeal against that decision?

The decision is not subject to ordinary appeal (*appel*) or appeal on a point of law to the Court of Cassation (*pourvoi en cassation*). The only possible challenge is to bring an appeal on a point of law to the Court of Cassation against the way in which the enforcement order was appended by the clerk of the court.

Related links

Ministry of Justice website

Legifrance website

Last update: 01/12/2017

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