Small claims

Estonia

1 Existence of a specific small claims procedure

The national procedural rules for judicial procedures concerning civil cases are set out in the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*).
Under Section 403 of the Code of Civil Procedure, a court may, with the consent of the parties, give a ruling without a hearing.
Under Section 404 of the Code of Civil Procedure, a court may order that a case involving an action with a monetary value be dealt with by written procedure if the value of the action does not exceed an amount corresponding to €4 500 on the main claim and to €8 000 together with ancillary claims.
Under Section 405 of the Code of Civil Procedure, a court exercises fair discretion and may deal with an action using the simplified procedure, observing only the general procedural principles laid down in the Code, if the action in question has a monetary value and the value of the action does not exceed an amount corresponding to €3 500 on the main claim and to €7 000 together with ancillary claims.
If the claimant so requests, an action for payment of money arising from a bill of exchange or a cheque or an action for compulsory enforcement arising from a mortgage, ship mortgage or registered pledge is dealt with using the documentary procedure, provided that all the elements substantiating the claim can be proved using documents and that the necessary documents are enclosed with the action or the claimant submits them within the time period set by the court.

1.1 Scope of procedure, threshold

1.2 If the parties agree, the court may order that a civil case be dealt with by written procedure, regardless of the type and value of the case.
The court may order that written procedure be used without the agreement of the parties if the case involves an action with a monetary value and the value of the action does not exceed an amount corresponding to €4 500 on the main claim and to €8 000 together with ancillary claims.
The simplified procedure may be applied if the action has a monetary value and the value of the action does not exceed an amount equivalent to €3 500 on the main claim and to €7 000 together with ancillary claims.
Where an action for payment of money arising from a bill of exchange or a cheque or an action for compulsory enforcement arising from a mortgage, ship mortgage or registered pledge is dealt with using the documentary procedure, no threshold value is set.

1.2 Application of procedure

Applications under the European Small Claims Procedure may be submitted to the court electronically or via a postal service provider. Applications may be submitted electronically via the information system created for that purpose (Public e-File (*Avalik e-toimik*), https://www.e-toimik.ee/) or by sending an email to the designated email address. The contact details of the Estonian courts are available on the Courts website. Applications must be signed by the sender. Applications submitted electronically must bear the sender's digital signature or have been transmitted in a similarly secure manner which enables the sender to be identified. Applications may also be submitted electronically by fax or in another form capable of producing a written record, provided that the original copy of the written document is submitted to the court without delay. Where the simplified procedure is followed, the court may bypass the legal provisions concerning the requirements for the form in which applications are to be submitted.
When ordering use of the written procedure with the consent of the parties under Section 403 of the Code of Civil Procedure, the court will as quickly as possible set the time period during which applications and documents may be submitted, set the date for making the judgment public, and inform the parties thereof. The parties may withdraw their consent to written procedure only if the procedural situation changes significantly. If a party fails to inform the court whether they agree to written procedure, the assumption is made that they wish the case to be examined in a court hearing.
Under Section 404 of the Code of Civil Procedure, when ordering use of the written procedure in a case involving an action with a monetary value, the court will set the deadline for submitting applications and documents, set the date for making the judgment public, and inform the parties thereof. The court may change the deadline where this is warranted by a change in the procedural situation. The court will cancel the use of written procedure if it considers that it is essential for a party to appear in person to explain the facts forming the basis for the action. If a party so requests, they will be heard regardless of whether a written procedure has been ordered.
Under Section 405(3) of the Code of Civil Procedure, the court may deal with an action using the simplified procedure without the need for a specific order to this effect. When exercising fair discretion and dealing with an action using the simplified procedure, the court observes only the general procedural principles. In the simplified procedure, the court ensures that the fundamental rights and freedoms and the essential procedural rights of the parties to the proceedings are respected and also hears a party at the party's request. It is not necessary to convene a court hearing for this. The parties to the proceedings must nevertheless be informed of their right to be heard by the court. Simplifying the proceedings is an option for the court, but not an obligation.
When dealing with an action using the simplified procedure, the court may, among other things:
- keep records of procedural acts only to the extent the court considers necessary, and exclude the right to lodge objections to such records;
- set deadlines that are different to those laid down by law;
- also recognise persons not referred to in law as contractual representatives of a party to the proceedings;
- bypass the legal provisions concerning the requirements for the form in which evidence is submitted and taken, and also recognise as evidence means of proof that have not been given under oath, including statements by parties to the proceedings;
- bypass the legal provisions concerning the requirements for the service of procedural documents and the form in which documents are to be submitted by parties to the proceedings, except when serving a notice of action on a defendant;
- dispense with written preliminary proceedings or a court hearing;
- take evidence on its own initiative;
- make a judgment in the case without a descriptive part or a statement of reasons;
- declare a decision taken in the case to be enforceable without delay even in cases other than those provided for by law or without the security prescribed by law.

Where the value of a civil case is within the threshold for the simplified procedure, the provisions on the simplified procedure are applied, including in the event of an appeal against a decision taken in the simplified procedure. This is also the case when adjudicating a civil case under Regulation (EC) No 861 /2007 of the European Parliament and of the Council establishing a European Small Claims Procedure (OJ L 199, 31.7.2007, p. 1) to the extent that it is not governed by that Regulation. On the basis of the Regulation, the case may be adjudicated by the county court (*maakohus*) with the relevant jurisdiction.

The documentary procedure is applied at the request of the claimant, provided that all the elements substantiating the claim can be proved using documents and that the necessary documents are enclosed with the action or the claimant submits them within the time period set by the court.
The means of electronic service that can be used for sending documents to the Estonian courts are the electronic information system (https://www.e-toimik.ee/) and the service of documents by email or fax. When sending a document to a court by fax, the original copy of the written document must be submitted to the court without delay once the fax has been sent. Where an appeal is lodged against a court decision, the original copy of the appeal must be submitted within 10 days.
The court may deem a petition or other procedural document sent by email by a party to the proceedings to be sufficient even if it does not meet the digital signature requirements, provided that the court has no doubts about the identity of the sender or the sending of the document, in particular where documents bearing a digital signature have previously been sent to the court from the same email address in the same case by the same party or where the court has agreed that petitions or other documents may be submitted to it also in this way.
It is also possible to grant prior consent electronically via the electronic information system (https://www.e-toimik.ee/), by email or by fax. Acceptance of service by electronic means under Article 13(1)(b)(ii) of the European Small Claims Regulation may also be submitted to the court with the application for a European Small Claims Procedure.
Procedural documents must generally be served on advocates, notaries, enforcement agents, trustees in bankruptcy and state or local government agencies electronically, via the designated information system. Service of documents using other methods is only permitted if there is good cause.
An appeal against a court judgment delivered in a European Small Claims Procedure may be lodged with the district court (*ringkonnakohus*) that has jurisdiction in respect of the county court that delivered the judgment in the European Small Claims Procedure. The appeal must be lodged in writing and must include:
1) the name of the court that issued the contested judgment, the date of the judgment and the number of the civil case;
2) an express request by the appellant, indicating both the extent to which the appellant is challenging the judgment of the court of first instance and also the district court decision the appellant is seeking;
3) the grounds for the appeal;
4) the time the contested judgment was served.
The grounds for the appeal must include:
1) the legal provision breached by the court of first instance in its judgment or in formulating its judgment, or the facts which the court of first instance has incorrectly or inadequately established;
2) the cause of the infringement of the legal provision or of the incorrect or inadequate establishment of the facts;
3) a reference to the evidence the appellant wishes to use to prove each statement of fact.
Documentary evidence that was not presented in the court of first instance and that the appellant requests the court to accept is to be included with the appeal.
Where new facts and evidence are given as the grounds for an appeal, the reason that the new facts and evidence were not presented in the court of first instance must be indicated in the appeal.
If the appellant wishes the court to hear a witness or to take a statement under oath from a party to the proceedings or to arrange for an expert report or an inspection, this must be indicated in the appeal and the reasons must be given. In this case, the names, addresses and contact details of the witnesses or experts must be indicated in the appeal, if known.
If the appellant wishes the case to be examined in a court hearing, they must indicate this in the appeal. If this is not done, the assumption is made that they agree to the case being resolved by written procedure. The court serves the appeal petition on the counterparty and sets a deadline for them to present their position.
An application for review of a court judgment under the Small Claims Procedure Regulation is decided upon by the court by means of a ruling. Where necessary, the application is dealt with in a court hearing. If the application is accepted, the European Small Claims Procedure will continue as it was before the ruling was made. Appeals may be lodged with a district court against court rulings rejecting applications for review of court judgments. Appeals against appeal rulings issued by a district court may be lodged with the Supreme Court (*Riigikohus*) only if the district court rejected the appeal.
The size of the state fee is determined on the basis of the value of the civil case, which is in turn determined on the basis of the amount claimed. When calculating the value of a civil case, the amount of the main claim is added to the amount of the ancillary claims. In the event of a European Small Claims Procedure application for the recovery of interest on arrears that has not become chargeable, an amount corresponding to 1 year of interest on the arrears must also be added to the amount. The size of the state fee is determined on the basis of the final amount received (the value of the civil case) and in accordance with the table presented in Annex 1 to the State Fees Act (*riigilõivuseadus*), as referred to in Section 59(1).
A state fee has to be paid on half of the value of the action for an application for review of a court judgment in proceedings taking place on the basis of the Small Claims Procedure Regulation. This state fee will be no less than €100 and no more than €2 100.
The same state fee amount must be paid for lodging an appeal as was paid for the initial lodging of the European Small Claims Procedure application with the county court, taking into account the scope of the appeal. When lodging an appeal or an appeal in cassation against a judgment made using the documentary procedure or against an interim judgment or a partial judgment issued under reservation, it is assumed that the value of the case is 1/4 of the value of the case at first instance.
When lodging an appeal in cassation with the Supreme Court, a state fee of 1% of the value of the civil case must be paid, taking into account the scope of the appeal. The size of the state fee is determined on the basis of Section 59 of the State Fees Act. The state fee is no less than €100 and no more than €4 760.
A state fee of €70 must be paid for lodging an appeal with a district court or the Supreme Court.
The state fee can be paid by bank transfer to any of the bank accounts of the Ministry of Finance: SEB Pank – bank account number EE571010220229377229 (SWIFT: EEUHEE2X); Swedbank – bank account number EE062200221059223099 (SWIFT: HABAEE2X); Luminor Bank – bank account number EE221700017003510302 (SWIFT: RIKOEE22); LHV Pank – bank account number EE567700771003819792 (BIC/SWIFT: LHVBEE22).
If a court judgment made under a European Small Claims Procedure is not complied with voluntarily, enforcement falls with the remit of enforcement agents.
Courts deciding upon applications in the European Small Claims Procedure (see point 1.2) have the power to take the measures referred to in Article 23.

1.3 Forms

There are no nationally applicable standard forms for simplified procedures.

1.4 Assistance

Legal aid is provided in accordance with the procedure laid down in the State-funded Legal Aid Act (*riigi õigusabi seadus*) and in Chapter 18, Subchapter 6 of the Code of Civil Procedure. The granting of State-funded legal aid is decided on the basis of an application from the person concerned.

An application to receive State-funded legal aid as a party to judicial proceedings in a civil case is submitted to the court that is dealing with the case or that has the jurisdiction to deal with it.
A natural person may receive State-funded legal aid if their financial situation at the time they require legal aid means that they are unable to pay for competent legal services or if they are able to pay for legal services only partially or in instalments or if their financial situation does not allow them to meet basic subsistence needs after paying for legal services.
State-funded legal aid is granted to a natural person who, at the time of submitting their application for the legal aid, is domiciled in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union. Domicile is determined on the basis of Article 62 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1). Other natural persons are granted legal aid only if they are entitled to such under an international obligation binding on Estonia.

1.5 Rules concerning the taking of evidence

Contrary to the standard procedure in respect of an action, a court may, in a case that is being dealt with using the **simplified procedure** under Section 405 of the Code of Civil Procedure, also take evidence on its own initiative. The court may bypass the legal provisions concerning the requirements for the form in which evidence is submitted and taken, and also recognise as evidence means of proof that have not been given under oath, including statements by parties to the proceedings.
In the **documentary procedure**, only documents submitted by the parties and statements made by the parties under oath are accepted as evidence. Evidence may be provided only as regards an action for payment of money arising from a bill of exchange or a cheque, an action for compulsory enforcement arising from a mortgage or ship mortgage, and whether a document is genuine or forged. No other evidence is accepted, and objections are not taken into account. No other claims or counterclaims may be submitted in the documentary procedure. In order to prove an ancillary claim arising from a bill of exchange or a cheque, it is sufficient to substantiate the claim.
The **rules for taking evidence** are laid down in Chapter 25 of the Code of Civil Procedure. Unless otherwise prescribed by law, both parties in an action must prove the facts on which their claims and objections are based. Unless otherwise prescribed by law, the parties may agree on an allocation of the burden of proof different from that provided for by law, and agree on the nature of evidence for proving certain facts. Evidence is provided by the parties to the proceedings. The court may invite the parties to submit additional evidence. If a party to the proceedings that wishes to submit evidence cannot submit the evidence themselves, they may request that the court take the evidence. When submitting evidence or requesting that evidence be taken, the party to the proceedings must explain which of the facts of relevance to the case they wish to prove by submitting the evidence or requesting that the evidence be taken. Any request for evidence to be taken must also include information that allows it to be taken. In the preliminary proceedings, the court sets the parties a deadline for submitting evidence or requesting that evidence be taken. If a request by a party to the proceedings for evidence to be taken is rejected because the party had failed to pay in advance the costs relating to taking the evidence in spite of the court having requested payment, the party is not entitled to request that any such evidence be taken subsequently if accepting that request would cause the case to be postponed.
If evidence has to be taken from outside the territorial jurisdiction of the court conducting proceedings in a case, the court hearing the case may rule that a special request for a procedural act be made to the court within whose territorial jurisdiction the evidence may be taken. The special request is carried out in accordance with the procedure in place for performing the procedural act requested. The parties to the proceedings are informed of the time and place at which the procedural act is to be performed, but the absence of a party does not prevent the special request from being carried out. The record of the procedural act and the evidence taken when carrying out the special request are sent without delay to the court hearing the case. Where the taking of evidence by a court conducting proceedings in a case on the basis of a special request leads to a dispute, and where continuing to take evidence depends on the resolution of that dispute but the court dealing with the issue on the basis of the special request is unable to resolve it, the dispute is resolved by the court dealing with the main case. Where the court carrying out the special request considers that it is appropriate, in the interests of adjudicating the case, to hand the process of taking evidence over to another court, it addresses a request to this end to the court and informs the parties to the proceedings.
Evidence that is taken in a foreign country in accordance with the laws of that country may be used in civil proceedings in Estonia, unless the procedural act carried out to take the evidence is contrary to the principles of Estonian civil procedure. Under Regulation (EU) 2020/1783 of the European Parliament and of the Council on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, the panel of an Estonian court that has requested the taking of evidence in line with the procedure set out in the Regulation or a judge acting on the basis of an order from such a court may be present at and participate in the taking of evidence by the foreign court. The parties to the proceedings, their representatives and experts may participate in the taking of evidence to the same extent as they can participate in the taking of evidence in Estonia. Where Article 19(3) of the Regulation allows the direct taking of evidence by an Estonian court in another Member State of the European Union, the panel of the court hearing the case, a judge acting on the basis of an order or an expert appointed by the court may participate in the taking of evidence.
Where evidence is to be taken outside the European Union, the court requests the taking of evidence through the competent authority in accordance with the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. The court may also take evidence in a foreign country by acting through the ambassador or authorised consular official representing the Republic of Estonia in that country, provided that this is not prohibited under the laws of that country.
A party that has submitted evidence or requested that evidence be taken may dispense with or withdraw the evidence only with the consent of the opposing party, unless otherwise provided by law.

1.6 Written procedure

In the **simplified procedure**, a case may be dealt with by written procedure. The court ensures that the fundamental rights and freedoms and the essential procedural rights of the parties to the proceedings are respected and also hears a party at the party's request. It is not necessary to convene a court hearing for this. The court may dispense with written preliminary proceedings or a court hearing.
In the documentary procedure, a case may be dealt with by written procedure if the parties agree.

1.7 Content of judgment

A judgment consists of an introduction, an operative part, a descriptive part and a statement of reasons. In the **simplified procedure**, a court may deliver a judgment without the descriptive part or a statement of reasons. Where a court is dealing with an action using the simplified procedure, it may confine itself in the descriptive part of the judgment to stating only the legal grounds and the evidence on which it has based its conclusions.
A county court delivering a judgment in a case where the simplified procedure has been used may note that it grants leave to appeal. In general, the court will grant leave to appeal if it considers that a decision by a court of appeal is necessary in order to obtain the opinion of a district court on a point of law. There is no need to justify the granting of leave to appeal.
In the **documentary procedure**, an action is dismissed if the claimant has failed to prove the claim using evidence permitted in the documentary procedure. In this case, the action may be resubmitted using the standard procedure. If the court upholds the action in the documentary procedure despite the defendant's objections, it delivers a judgment in which it also reserves the defendant's right to defend their rights in future. For the purposes of appeal and compulsory

enforcement, a judgment with a reservation is deemed to be a final judgment. Where an objection that could have been submitted using the documentary procedure is resolved by means of a judgment with a reservation, the defendant may subsequently resubmit that objection only if the judgment with a reservation is set aside or amended.

1.8 Reimbursement of costs

General principles:

The costs of an action are borne by the unsuccessful party.

The unsuccessful party reimburses the other party for, among other things, any necessary out-of-court expenses incurred as a result of the judicial proceedings. Parties are reimbursed for any out-of-court expenses for which a witness would be reimbursed, including compensation for any loss of earnings or other permanent income, on the same bases and to the same extent as witnesses are reimbursed.

The procedural costs of a party's legal representative are reimbursed in line with the same rules as apply to the procedural costs of the party.

The court may order the parties to bear the costs in full or in part themselves, if ordering the opposing party's costs to be paid by the unsuccessful party would be grossly unfair or unreasonable.

If an action is satisfied in part, the parties bear the procedural costs equally, unless the court apportions the procedural costs in a manner equivalent to the extent to which the action is satisfied or orders the parties to bear the procedural costs in full or in part themselves.

1.9 Possibility to appeal

In the operative part of a judgment delivered in the simplified procedure, the court indicates the rules and deadline for appealing. An appeal may be lodged under the standard procedure against a judgment delivered in the simplified procedure. A district court may hear an appeal using the simplified procedure regardless of whether the county court has allowed this, and an appeal may be lodged regardless of whether the county court has allowed this. The district court may not leave an appeal unprocessed solely because it uses the simplified procedure.

An appeal may be lodged under the standard procedure against a judgment delivered in the documentary procedure.

A party and a third party with an independent claim may appeal against a judgment of a court of first instance. A third party without an independent claim may lodge an appeal under the conditions laid down in Section 214(2) of the Code of Civil Procedure.

An appeal may not be lodged if both parties have renounced their right to lodge an appeal in a petition submitted to the court.

An appeal may be lodged within 30 days of the service of the judgment on the appellant, but not later than within 5 months of the judgment of the court of first instance being made public.

If a supplemental judgment is made in a case during the period for appeal, the period for appeal begins to run as of the date on which the supplemental judgment is handed down, including with regard to the initial judgment. In cases where the omitted part is added to a judgment made without the descriptive part or statement of reasons, the period for appeal begins to run anew as of the date on which the full judgment is handed down.

If the parties reach an agreement to this effect and inform the court, the period for appeal may be reduced, or it may be increased to up to 5 months as of the judgment being made public.

A party to appeal proceedings may lodge an appeal in cassation against a judgment of a district court with the Supreme Court if the district court has materially breached a provision of procedural law or incorrectly applied a provision of substantive law. A third party without an independent claim may lodge an appeal in cassation under the conditions laid down in Section 214(2) of the Code of Civil Procedure.

An appeal in cassation may not be lodged if both parties have renounced their right to lodge an appeal in a petition submitted to the court.

An appeal in cassation may be lodged within 30 days of the service of the judgment on the appellant, but not later than within 5 months of the district court's judgment being made public.

Last update: 18/04/2024