European payment order

Maďarsko

1 Existence of an order for payment procedure

There is an order for payment procedure in Hungary, governed by Act L of 2009 on Order for Payment Procedures. Order for payment procedures are simplified, out-of-court civil law proceedings for the enforcement of payment claims and fall within the competence of civil law notaries. The order for payment procedure entails automated processing of data, for which the civil law notary uses the uniform online IT system of the Hungarian Chamber of Civil Law Notaries (MOKK) available nationwide to civil law notaries and the parties and other persons involved in the procedure. As out-of-court civil law proceedings, the notary's proceedings have the same effect as court proceedings.

1.1 Scope of procedure

Except in certain cases, an overdue pecuniary claim may be pursued through an order for payment procedure.

If the sum in dispute, calculated in accordance with the relevant rules laid down in Act CXXX of 2016 on the Code of Civil Procedure, does not exceed HUF 3 000 000, an overdue claim limited exclusively to the payment of money may be pursued only through an order for payment procedure or an attempt to reach a pre-trial settlement. This provision only applies if

a) each party has a known place of residence or, failing this, place of stay, or seat or branch office ('address for service') in Hungary, and

b) the claim for payment did not arise from a legal relationship established under Act I of 2012 on the Labour Code, employment in the public sector, a service relationship, participation in a public employment scheme, a labour contract concluded under the Act on Sports, an apprenticeship contract concluded in vocational training, a student internship contract under the Act on National Higher Education or a work relationship established with a social cooperative or an employment cooperative by its member or a public service relationship or administrative contract within the meaning of Act I of 2017 on the Code of Administrative Court Procedure. Pecuniary claims arising from these legal relationships may only be pursued through an order for payment procedure if the case is not related to the entry into, modification or termination of the legal relationship or a legal consequence of a culpable breach by the employee of the obligations arising from the legal relationship, or a legal consequence of misconduct on the part of the employee.

If the sum in dispute, calculated in accordance with the relevant rules laid down in the Code of Civil Procedure, exceeds HUF 30 000 000, a pecuniary claim may not be pursued through an order for payment procedure.

The pursuit of a claim for the payment of money should be understood as not including the pursuit of mortgage claims against mortgagees.

No payment order can be issued if a party does not have a known address for service in Hungary.

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

See the answer in Section 1.1.

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

Yes, HUF 30 000 000.

1.1.3 Is the use of that procedure optional or obligatory?

Below HUF 3 000 000 it is mandatory, as indicated in Section 1.1; in all other cases, it is optional.

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

No payment order can be issued if the debtor does not have a known address for service in Hungary.

1.2 Competent court

In order for payment procedures civil law notaries have competence across the country. In order for payment procedures no stipulations may be made in terms of jurisdiction.

Claims submitted orally or on paper are dealt with by the civil law notary to whom the claim was submitted, while electronic claims are assigned automatically to a civil law notary by a computer program.

1.3 Formal requirements

Applications to have an order for payment issued must be submitted either in writing, on the corresponding form, or orally.

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

It is obligatory to use a standardised form for both electronic and paper-based submissions. The form may be downloaded from the website of the MOKK or obtained from the notaries.

1.3.2 Is representation by a lawyer required?

No.

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

The application must include:

- the legal relationship on which the claim is based, the right claimed, and the amount of the principal claim and related charges;
- the starting date of the underlying legal relationship and the due date of the claim;
- the data on the basis of which the claim can be identified.

The application may contain a short presentation of the facts underlying the right claimed and an indication of the supporting evidence.

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

No evidence is taken in order for payment procedures. However, the application may contain a short presentation of the facts underlying the right claimed and an indication of the supporting evidence. This provision does not prevent a civil law notary from examining whether an application for partial exemption from costs, payment in instalments or deferral of payment is well founded.

1.4 Rejection of application

The civil law notary will reject the application if it can be established that

a) the jurisdiction of Hungarian civil law notaries or, in the case of transfer to ordinary civil proceedings, the jurisdiction of Hungarian courts is excluded by law, a binding legal act of the European Union or an international convention, or a foreign court has exclusive jurisdiction;

b) the enforcement of the claimant's claim falls under the exclusive jurisdiction of the courts or other authority;

c) the law provides that no order for payment may be issued;
d) there is an ongoing order for payment procedure between the parties for the same rights and on the same factual basis, or the legal consequences of bringing an action have already arisen, or an effective order for payment or other final ruling has already been made in the case;
e) a party has no legal capacity to act in the case;
f) the claimant does not have an address for service in Hungary when submitting the application for an order for payment, or the claimant's Hungarian address for service ceases to exist after the submission of the application, or service could not be effected on the claimant at the Hungarian address for service specified by the claimant;
g) the claimant requests service by publication of the order for payment;
h) service of the order for payment at the Hungarian address of the defendant has failed repeatedly, except in cases where service is presumed to have taken place;
i) the claimant's application is premature or, for a reason other than limitation, cannot be enforced by a court;
j) the claimant has failed to meet the time limit set by separate legislation for enforcing the claim in civil proceedings;
k) an application submitted by a legal representative does not comply with the requirements for its content laid down in the applicable law or in delegated legislation, or it does not contain the power of attorney of the legal representative, or the costs of the proceedings were not paid;
l) a legal person or another person having an e-administration obligation under the law failed to submit its application by electronic means, with the exception of applications for partial exemption from costs submitted by a natural person with a legal representative;
m) after the court's call on the claimant to remedy deficiencies, the application (or the part required) is not submitted within the specified time limit, or the submitted application is still incomplete, preventing it from being examined, or the claimant has failed to pay in advance the administrator's fee; or
n) the claimant claims procedural costs in a claim under substantive law.
Except in cases where service is presumed to have taken place, if the order for payment could not be served on the defendant, the claimant must be informed and simultaneously requested to notify the defendant's new address for service in Hungary within thirty days. If the claimant provides the data requested, service must be attempted again, and if the repeated attempt is unsuccessful, the application must be rejected for the reason in point h).
If the claimant fails to provide the data requested, or if the data provided by the applicant are incomplete, the application must be rejected for the reason in point m).
The order rejecting the application for a payment order must be served on the claimant and sent to the defendant. The claimant may appeal against the order, without having to send the appeal to the defendant for observations.

1.5 Appeal

The claimant may appeal against the order rejecting the application for an order for payment. Generally, appeals are heard in a non-litigious procedure by the regional court (*törvényszék*) with jurisdiction over the area where the seat of the civil law notary is located, in accordance with the rules on appeals against orders. An appeal may be submitted within 15 days of the notification of the decision. If an application for an order for payment is rejected, the claimant may choose to pursue the claim through another application for an order for payment, a court action, or by other lawful means. In that case, the legal effects of submitting an application persist if the new application for an order for payment or application initiating proceedings is submitted or sent by registered post within thirty days of the date on which the rejection order becomes final, or the claim is pursued through other lawful means within the same time limit. No application for extension will be accepted if this time limit is not met. A new application for an order for payment must quote the reference number of the order rejecting the previous application. An application initiating proceedings must append the order itself.
In other cases, a decision in an order for payment procedure may be subject to appeal if the Act on Order for Payment Procedures or the Code of Civil Procedure allows appeal.
There is no right of appeal against an order for payment, but the defendant may lodge a statement of opposition, as described in Section 1.6.
Since a final order for payment has the same effect as a judgment, an application for its revision may be filed in accordance with the rules laid down in the Code of Civil Procedure. The revision falls within the jurisdiction of the court which would have had jurisdiction as a court of first instance if the procedure had been transferred to ordinary civil proceedings as a result of a statement of opposition. If an application for revision is filed, the court receives the documents of the case on paper from the civil law notary or obtains them electronically from the MOKK's system.
No review lies against a final order for payment.

1.6 Statement of opposition

The defendant may lodge a statement of opposition against the order for payment with the civil law notary within 15 days of its service. Applications submitted by the defendant simply for a deferral of payment or payment in instalments are not considered as a challenge to the order for payment. Such applications may only be submitted within the time limit set for statements of opposition. If the defendant submits in the statement of opposition that the claim being pursued had already been paid before the order for payment was served, the civil law notary invites the claimant at the time of the service of the notification of the statement of opposition to indicate within fifteen days if the claim still exists. If there is a document supporting payment or the payment transaction has a unique identifier, the defendant must indicate in the statement of opposition the number and date of the supporting document or the details identifying the transaction (transaction identifier, payer, etc.) and the date of the transaction. If the claimant accepts the statement of the defendant or fails to respond, the civil law notary will terminate the procedure. If the claimant contests the statement of the defendant, the order for payment procedure is transferred to ordinary civil proceedings. If, on the basis of the statement of the defendant, the claimant reduces the claim pursued through the order for payment procedure, the court will deal with the reduced claim in the civil proceedings. It should be noted that the order for payment is not considered challenged if the defendant states that the claim being pursued was paid after receiving the order for payment. In that case, the order for payment becomes final on the day following the end of the time limit for lodging a statement of opposition. If the defendant fails to receive the order for payment (it is returned as 'unclaimed') and, for that reason, it must be deemed to have been served, the defendant may lodge a statement of opposition within 15 days of the service of the document implementing the decision. As a condition for this, at the time of submitting the statement of opposition, the defendant must pay to the bailiff the enforcement costs, which were paid in advance by the claimant, and must also provide documentary evidence of this fact to the civil law notary.

1.7 Effect of statement of opposition

A statement of opposition filed within the time limit leads to transfer to ordinary civil proceedings of the part of the order for payment procedure concerned by the statement of opposition.

1.8 Effect of lack of statement of opposition

If an order for payment is not challenged by a statement of opposition within the time limit, it will have the same effect as a final court judgment.

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

If an order for payment is not challenged by a statement of opposition within the time limit, it will have the same effect as a final court judgment.
Consequently, the civil law notary provides a copy of the order for payment with a clause giving it legal effect and has it served on the claimant.

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

The decision is final; however, if the defendant fails to receive the order for payment and, for that reason, it is deemed to have been served under the law, the defendant may lodge a statement of opposition within 15 days of the service of the document implementing the decision.
There is a possibility to apply for the revision of a final order for payment in accordance with the rules laid down in the Code of Civil Procedure, as described above in Section 1.5.
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