Acções de pequeno montante

O processo europeu para ações de pequeno montante procura simplificar e acelerar os litígios transfronteiriços até 5 000 EUR.

O processo europeu para ações de pequeno montante representa para os litigantes uma alternativa aos processos existentes no direito dos Estados-Membros. As decisões proferidas no âmbito do processo europeu para ações de pequeno montante são reconhecidas e executadas nos outros Estados-Membros sem necessidade de declaração de executoriedade e sem que seja possível contestar o seu reconhecimento.

Foram elaborados formulários normalizados destinados ao processo para ações de pequeno montante que estão disponíveis aqui em todas as línguas.

Para iniciar o processo, deve ser preenchido o «Formulário A». Os eventuais documentos comprovativos, como recibos, faturas, etc. devem ser anexados ao formulário.

O Formulário A deve ser enviado ao órgão jurisdicional competente. Quando o órgão jurisdicional recebe o formulário de requerimento deve preencher a sua parte no «Formulário de resposta». No prazo de 14 dias após a receção do formulário de requerimento, o órgão jurisdicional deve notificar ao requerido uma cópia do mesmo juntamente com o Formulário de resposta. O requerido tem 30 dias para responder, preenchendo a parte reservada para o efeito no Formulário de resposta. O órgão jurisdicional deve enviar cópia de qualquer eventual resposta ao requerente no prazo de 14 dias.

No prazo de 30 dias a contar da receção da resposta do requerido (se for caso disso), o órgão jurisdicional deve proferir uma decisão relativa à ação de pequeno montante ou solicitar elementos suplementares escritos de qualquer das partes ou convocar as partes para uma audiência. No caso de se realizar uma audiência, não é necessário estar representado por um advogado e, se o órgão jurisdicional tiver equipamento adequado, a audiência deve ser realizada por videoconferência ou por teleconferência.

Com base na certidão emitida pelo tribunal (que poderá ter de ser traduzida para a língua do outro Estado-Membro), acompanhada de uma cópia da decisão, esta última adquire força executória em todos os outros Estados-Membros da União Europeia, sem mais formalidades adicionais. A única razão que pode impedir a execução noutro Estado-Membro é o facto de ser incompatível com uma decisão proferida no outro Estado-Membro e respeitante às mesmas partes. A execução tem lugar de acordo com as noemas e procedimentos nacionais do Estado-Membro em que a decisão é executada.

Ligações conexas

Regulamento (CE) n.º 861/2007 - texto consolidado de 14 de junho de 2017 PDF (1871 Kb) pt

Guia destinado aos utilizadores do Processo Europeu para Ações de Pequeno Montante PDF (1109 Kb) pt

Guia Prático para a Aplicação do Processo Europeu para Ações de Pequeno Montante PDF (2263 Kb) pt

Infográfico para os consumidores PDF (105 Kb) pt

Folheto para os profissionais do direito PDF (557 Kb) pt

Folheto para as empresas PDF (236 Kb) pt

Ferramentas Web: informação sobre o processo europeu para ações de pequeno montante

Acções de pequeno montante – notificações dos Estados-Membros e uma ferramenta de pesquisa para a identificação do tribunal competente(s)/autoridade (s)

Para obter informações pormenorizadas sobre o direito nacional de um país, clique na respetiva bandeira.

Páginas relacionadas:

Custas judiciais da ação de pequeno montante

Acções de pequeno montante – formulários

Última atualização: 03/04/2023

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Small claims - Belgium

1 Existence of a specific small claims procedure

There is no specific procedure for small claims under Belgian legislation, although summary proceedings to order payment are available (*procédure sommaire d'injonction de payer*/*summiere rechtspleging om betaling te bevelen*): see separate file.

There is no specific procedure for small claims. The ordinary legal procedure applies, but it is very simple.

The normal procedure is as follows:

summons (*citation*/*dagvaardiging*) by means of a bailiff's notification (*exploit d'huissier*/*deurwaardersexploot*)

exchange of written arguments (*conclusions*/*conclusies*)

hearing (pleadings (*plaidoirie*/*pleidooi*)) and closure of argument

judgment.

In principle, no simplifications are possible, but some actions are brought not by a summons of the kind referred to above but rather by an application initiating ordinary adversarial proceedings which is made direct to the court (*requête contradictoire*/*verzoekschrift op tegenspraak*) (Articles 1034*bis* to 1034*sexies* of the Judicial Code (*Code judiciaire*/*Gerechtelijk Wetboek*)). Such an application can be made for example in a dispute between landlord and tenant. Section 1344*bis* of the Judicial Code states that, always subject to the rules governing leases of agricultural land, any action relating to the rental of property can be brought by way of an application filed with the registry (*greffe*/*griffie*) of the civil magistrate's court (*justice de paix*/*vredegerecht*).

1.1 Scope of procedure, threshold

1.2 Application of procedure

1.3 Forms

1.4 Assistance

1.5 Rules concerning the taking of evidence

1.6 Written procedure

1.7 Content of judgment

1.8 Reimbursement of costs

1.9 Possibility to appeal

Related links

The legislation relating to summary proceedings to order payment: Website: Federal Public Service for Justice:
Click on ‘Consolidated legislation’ under the heading ‘Sources of law’
Select ‘Judicial Code’ under the heading ‘Legal nature’
Type ‘664’ under the heading ‘words’
Click ‘Retrieve’ and then ‘List’.
Click ‘Detail’.

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Small claims - Bulgaria

1 Existence of a specific small claims procedure

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure. As of 01.01.2009, the Bulgarian courts apply Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure. Those proceedings are heard in the regional courts, whereas for issues not specifically dealt with in Regulation (EC) No 861/2007 the general rules of the Civil Procedure Code are applicable.

1.1 Scope of procedure, threshold

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.2 Application of procedure

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.3 Forms

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.4 Assistance

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.5 Rules concerning the taking of evidence

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.6 Written procedure

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.7 Content of judgment

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.8 Reimbursement of costs

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

1.9 Possibility to appeal

The Bulgarian Civil Procedure Code does not provide for a special small claims procedure.

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Small claims - Czechia

1 Existence of a specific small claims procedure

1.1 Scope of procedure, threshold

The Czech Republic has no specific small claims procedure. The small claims category (i.e. focusing on the amount of financial compensation) is only taken into consideration in appeal proceedings.

1.2 Application of procedure

Article 202(2) of the Code of Civil Procedure provides that appeals are inadmissible against judgments ruling *on monetary compensation not exceeding CZK 10 000*, excluding any interest and charges pertaining to the claim; this does not apply to default judgments.
Appeals may therefore be lodged against default judgments, even if they rule on amounts lower than CZK 10 000.
Article 238(1)(c) of the Code of Civil Procedure provides that appeals on a point of law are inadmissible against judgments and court orders in which the operative part contested by the appeal has ruled *on monetary compensation not exceeding CZK 50 000* (excluding any interest and charges pertaining to the claim), except where they concern contractually established consumer relations or employment.

1.3 Forms

There are no forms specific to a small claims procedure.

1.4 Assistance

Under the Code of Civil Procedure, courts are required to advise the parties of their procedural rights and obligations. In this respect, the law lays down what advice the court is to give the parties in the specific procedural situation.

1.5 Rules concerning the taking of evidence

The same rules govern the submission, evaluation and obtaining of evidence in litigation in civil procedure, irrespective of the sum involved.

1.6 Written procedure

The law on small claims procedure does not establish any exceptions in the way proceedings are to be held.

1.7 Content of judgment

A ruling on small claims is no different in content from any other.

1.8 Reimbursement of costs

The reimbursement of costs is covered by general rules on civil procedure.

1.9 Possibility to appeal

As noted above, appeals are inadmissible against judgments ruling *on monetary compensation not exceeding CZK 10 000*, excluding any interest and charges pertaining to the claim; this does not apply to default judgments.

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Small claims - Germany

1 Existence of a specific small claims procedure

1.1 Scope of procedure, threshold

There is no special procedure for small claims in the Code of Civil Procedure (Zivilprozessordnung, ZPO). However, Section 495a of the Code does make provision for a simplified procedure. It allows the court to decide how to proceed, at its reasonable discretion, in cases where the value in dispute is €600 or less. The Code does not restrict this possibility in any other way: for example, it does not confine it to any particular type of dispute.

1.2 Application of procedure

In such cases, therefore, the court may decide how to proceed at its reasonable discretion and may, in particular, make use of certain specific ways of simplifying the procedure. The court is not obliged to do this. Even where the value in dispute is less than €600 the court may also proceed under the usual rules.

If the court determines its procedure at its own discretion, the parties cannot object. They may only request an oral hearing.

1.3 Forms

There are no standardised forms that need to be used.

1.4 Assistance

The usual rules apply. This is because the proceedings are simplified only in terms of the procedure to be followed. Parties that are not legally represented are facilitated in the same way as those that are legally represented. For example, in actions before the local courts (Amtsgerichte) the claim may be registered orally at the court office. Even a person who is legally represented is free to register a statement orally rather than filing it through their lawyer. Similarly, the question whether a party is legally represented or not does not affect the nature and scope of the court's duty to inform and advise (Aufklärungs- und Hinweispflichten). The court is legally obliged to explain the proceedings from a legal and factual point of view and to clarify the issues.

1.5 Rules concerning the taking of evidence

The court is not restricted to taking evidence in the usual ways. Contrary to the principle of direct evidence (Unmittelbarkeit) which applies otherwise and which means that witnesses, experts or the parties themselves must be heard before the trial court in the presence of the parties, in simplified proceedings the Court may for example order witnesses, experts or parties to be questioned over the telephone or in writing.

1.6 Written procedure

An exclusively written procedure may be used. However, there must be oral proceedings if one of the parties so requests.

1.7 Content of judgment

The structure of the judgment is simpler than for ordinary proceedings. This because judgments where the value in dispute is less than €600 generally cannot be appealed.

For example, the description of the facts may be omitted. It is also possible to leave out the grounds of the decision if the parties are willing to accept this, or if the essential content of the grounds is already set out in the court record. Because of the requirements of international legal relations, however, the grounds of the judgment must be stated if the judgment is expected to be enforced abroad (Section 313a(4) of the Code of Civil Procedure).

If, exceptionally, the court were to give leave to appeal, the structure of the judgment would be governed by the usual rules.

1.8 Reimbursement of costs

There are no restrictions on the reimbursement of costs; the usual rules apply.

1.9 Possibility to appeal

As a general rule judgments where the value in dispute is less than €600 cannot be appealed. By way of exception, however, an appeal may be permitted if in its judgment the first court gives leave to appeal. This may be because the case is of fundamental importance, or because a decision by the appeal court is required in order to develop the law or to ensure consistent case law.

If no appeal is permitted, the first court must reopen the case if a party aggrieved by the judgment objects that the court has failed to give it a proper hearing in a way that is material to the decision. If the objection is not remedied by the trial court, the only recourse for the party is to lodge a constitutional complaint with the Federal Constitutional Court.

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O texto desta página na língua original et foi recentemente alterado. A tradução deste texto para português está em curso.

Small claims - Estonia

1 Existence of a specific small claims procedure

The rules of procedure for hearing civil cases in Estonian courts are laid down in the Code of Civil Procedure (tsiviilkohtumenetluse seadustik (TsMS)). If a civil case is heard under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, the rules set out in the Code of Civil Procedure with regard to the simplified procedure will apply to the extent that this is not regulated by the Regulation. Cases may be heard under the Regulation by the county court (maakohus) competent to do so according to jurisdiction. Pursuant to section 405 of the Code of Civil Procedure, which regulates the simplified procedure, courts hear simplified procedure actions following simplified rules at their reasonable discretion and having regard only to the general procedural principles provided for in the Code.

1.1 Scope of procedure, threshold

If a civil case is heard under Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, the rules set out in the Code of Civil Procedure with regard to the simplified procedure will apply to the extent that this is not regulated by that Regulation. The simplified procedure rules are applied to domestic cases which concern proprietary claims and the value of which does not exceed an amount corresponding to 2,000 euros for the main claim and to 4,000 euros together with collateral claims.

1.2 Application of procedure

Under subsection 405(3) of the Code of Civil Procedure, courts may hear cases following simplified rules without having to make a separate ruling concerning this fact. Courts hear actions following simplified rules at their reasonable discretion having regard only to the general procedural principles. In the simplified procedure, courts guarantee that the fundamental rights and freedoms and the essential procedural rights of the participants in proceedings are observed and that participants in proceedings are heard if they so request. A court session need not be held for this purpose. Participants in proceedings must still be notified of their right to be heard by the court. Courts may simplify the procedure, but are not obliged to do so.

When hearing an action in the simplified procedure, a court may:

- minute procedural acts only to the extent the court deems it necessary, and preclude the right to file any objections to the minutes;
- set a term which differs from the term provided by law;
- recognise persons not specified by law as contractual representatives of participants in proceedings;
- deviate from the provisions of law concerning the formal requirements for submission and taking of evidence and also accept pieces of evidence not provided by law, including a statement of a participant in proceedings which is not given under oath;
- deviate from the provisions of law concerning the formal requirements for serving procedural documents and for documents to be presented to the participants in proceedings, except for serving an action on the defendant;
- waive written pre-trial procedure or the court session;
- take evidence at its own initiative;
- make the judgment in the case without the descriptive part and statement of reasons;
- declare a decision made in the case to be immediately enforceable also in cases other than those specified by law or without a security prescribed by law.

An application for the initiation of the European Small Claims Procedure can be filed with a court in an electronic format or by post. An application in electronic format can be filed via the information system designed for the purpose (the E-toimik (e-File system), https://www.e-toimik.ee/). In order to file an application via the e-File system, one can log in to the information system and operate there only with the Estonian ID card. An electronic application can also be filed with a court by e-mail. The contact details of the Estonian courts are available on the website of courts at https://www.kohus.ee.

The application must be signed by its sender. An electronically filed application must be digitally signed by the sender or submitted in any other similarly secure manner which makes it possible to identify the sender. An electronic application may also be filed by fax or any other format which can be reproduced in writing, provided that the original written document is delivered to the court without delay. If a court ruling is appealed, the original appeal must be filed within ten days.

The court may deem an application or any other procedural document submitted by e-mail by a participant in proceedings to be sufficient even if it fails to comply with the requirement of bearing a digital signature, provided that the court has no doubts about the identity of the sender and the sending of the document, especially if documents with a digital signature have been sent earlier from the same e-mail address to the court in proceedings concerning the same matter by the same participant in proceedings, or if the court has agreed that applications or other documents may also be submitted in such manner.

The acceptance specified in Article 13(1)(b)(ii) of the Regulation establishing a European Small Claims Procedure can be communicated electronically via the e-File electronic information system (https://www.e-toimik.ee/) or by e-mail or fax under the conditions mentioned above. Such acceptance may also be filed with the court together with the application for the European Small Claims Procedure.

Procedural documents must be served on advocates, notaries public, bailiffs, trustees in bankruptcy and state or local government agencies electronically via the information system designed for the purpose. Their service in any other manner is only permitted with good reason. In the simplified procedure, the formal requirements regarding serving of procedural documents may be deviated from; however, this option should be considered with caution. The rules regarding serving of procedural documents may not be deviated from when serving statements of claim on defendants and judicial decisions on participants in proceedings.

The rate of the state fee is determined based on the value of the civil case, which in turn is calculated taking into account the amount of money requested to be paid. When calculating the value of a civil case, the amount of collateral claims must be added to the amount of the main claim. If in the European Small Claims Procedure a penalty for late payment is claimed but the penalty has not fallen due as of the moment of submission of the application, the amount of the penalty corresponding to the amount due for one year must be added to the amount of the same calculated as of the date of submission of the application. The rate of the state fee is determined based on the final amount of money calculated (value of the civil case) and following the table given in Annex 1 to the State Fees Act (riigilõivuseadus) as per subsection 59(1) thereof.

When filing an appeal the state fee will be payable in the same amount as paid upon initial submission of the application for the European Small Claims Procedure to the county court, taking into consideration the extent of the appeal. When filing an appeal against a court ruling with a circuit court (ringkonnakohus), a state fee of 50 euros must be paid. When filing an appeal in cassation or an appeal against a court ruling with the Supreme Court (Riigikohus), a security on cassation is payable. The security on cassation to be paid on an appeal on cassation is one percent of the value of the civil case, taking into consideration the extent of the appeal; however, the security will not be less than 100 euros or more than 3,000 euros. The security on cassation payable on an appeal against a court ruling is 50 euros.

The state fees and securities on cassation due for acts to be made in court cases must be paid to the following bank accounts of the Ministry of Finance:

SEB Bank – a/c EE571010220229377229 (SWIFT: EEUHEE2X)

Swedbank – a/c EE062200221059223099 (SWIFT: HABAEE2X)

Luminor Bank – a/c EE221700017003510302 (SWIFT: NDEAEE2X)

If a judgment which is made in the European Small Claims Procedure and has taken effect is not complied with voluntarily, the person wishing to subject the judgment to compulsory enforcement must turn to a bailiff in order to initiate enforcement proceedings.

Under Article 21(2)(b) a judgment given in litigations conducted under the Regulation will only be enforceable in Estonia if it is made in Estonian or English or if a translation into Estonian or English is appended to the certificate. If a judgment given in the European Small Claims Procedure is appealed, the measures specified in Article 23 of the Regulation will be taken by the circuit court with which the appeal is filed. If a judgment is made by default and a petition is filed to set aside the default judgment under section 415 of the Code of Civil Procedure, the application for the measures must be submitted with the court hearing the petition.
If no appeal has yet been filed, the measures specified in Article 23 of the Regulation are taken by the court which made the decision. The measure specified in Article 23(c) of the Regulation can be taken by the county court within the jurisdiction of which the enforcement proceedings are or should be conducted.
In the events specified in section 46 of the Code of Enforcement Procedure (täitemenetluse seadustik) enforcement proceedings may, in addition to a court, also be stayed by the bailiff conducting the proceedings.

1.3 Forms

There are no standard forms used nationally for simplified proceedings.

1.4 Assistance

If a person participates in judicial proceedings through a contractual representative, the representative must generally hold at least a state-recognised Master's Degree in the field of law, a corresponding qualification within the meaning of subsection 28 (22) of the Republic of Estonia Education Act (Eesti Vabariigi haridusseadus) or a corresponding foreign qualification. In the simplified procedure, however, a court may allow a person who does not comply with said educational requirements but who is, in the opinion of the court, still competent to represent another person in court to act as a representative. The special rules pertaining to the simplified procedure are only applicable to first-instance litigations in county courts. A contractual representative accepted by a county court but not complying with the educational requirements cannot perform any procedural acts in a circuit court or the Supreme Court.
Participation of a representative in a case does not restrict a participant in proceedings with active legal capacity in civil proceedings from participating personally in the case. The behaviour and knowledge of a representative is deemed to be equivalent to the behaviour and knowledge of a participant in proceedings.
If the court finds that a natural person who is a participant in proceedings is unable to protect their rights on their own or that their essential interests may be insufficiently protected without the assistance of an advocate, the court will explain to that person the possibility to receive state legal aid.
Legal aid is provided pursuant to the rules regarding procedural assistance set out in the Code of Civil Procedure (section 180 ff.) and to the procedure specified in the State Legal Aid Act (riigi õigusabi seadus). State legal aid is granted on the basis of the person's application.
State legal aid is granted to a natural person who, at the time of submission of the application for state aid, is resident in the Republic of Estonia or another EU Member State or is a citizen of the Republic of Estonia or another EU Member State. Residence 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. Other natural persons are granted legal aid only if this results from an international obligation binding on Estonia.
An application for state legal aid in judicial proceedings as a party to a civil case is to be submitted to the court hearing the case or the court that would be competent to hear the case.
A natural person is entitled to state legal aid if the person is unable to pay for competent legal services due to the person's financial situation at the time the person requires legal aid or if the person is able to pay for legal services only partially or in instalments or if the person's financial situation does not allow them to meet basic subsistence needs after paying for legal services.
A natural person is not granted legal aid if:
(1) the procedural expenses are not presumed to exceed twice the average monthly income of the person requesting legal aid calculated on the basis of the average monthly income of the last four months before the submission of the application less any taxes and compulsory insurance payments, amounts prescribed to fulfil a maintenance obligation arising from the law and reasonable expenses on housing and transport;
(2) the person requesting legal aid is able to cover the procedural expenses out of the existing assets which can be sold without any major difficulties and against which a claim for payment can be made pursuant to the law;
(3) proceedings relate to the economic or professional activity of the person requesting procedural assistance and do not concern his or her rights which are not connected to his or her economic or professional activity. This does not apply to the extent that it excludes the provision of procedural assistance to natural persons for the release, in part or in full, from payment of the state fee on recourse to the court or on appeal if proceedings concern the economic or professional activity of the person requesting procedural assistance and are not related to his or her rights which are not connected to his or her economic or professional activity.

1.5 Rules concerning the taking of evidence

In the **simplified procedure** a court may deviate from the provisions of law concerning the formal requirements for provision and taking of evidence and to also accept pieces of evidence not provided by law (e.g. a statement of a participant in proceedings which is not given under oath). Contrary to ordinary proceedings of action, in a simplified procedure case a court may take evidence also at its own initiative. It must, however, be ensured that the court's acts may not damage the parties' equality before the court. The facts concerning which the court takes evidence must be made known to the court beforehand.
The rules pertaining to the taking of evidence are set out in Chapter 25 of the Code of Civil Procedure. In actions, each party must prove the facts on which their claims and objections are based, unless otherwise provided by law. The parties may agree to divide the burden of proof differently from that which is provided by law and agree on the nature of evidence whereby a certain fact may be proved, unless otherwise prescribed by law. Evidence is submitted by the participants in proceedings. The court may propose to the participants in proceedings that they submit additional evidence. If a participant in proceedings wishing to provide evidence is unable to do so, the participant in proceedings may request the taking of the evidence by the court. A participant in proceedings who provides evidence or requests the taking of evidence must substantiate which facts relevant to the case the participant in proceedings wishes to prove by providing the evidence or requesting the taking of evidence. A request for taking of evidence must also set out any information which enables the taking of evidence. In the course of pre-trial proceedings, the court sets the participants in proceedings a term for providing evidence and requesting the taking of evidence. If the request of a participant in proceedings for taking of evidence is denied due to the failure of the participant to pay the costs related to the taking of evidence in advance notwithstanding the demand of the court, the participant will not have the right to request the taking of evidence later on if granting the request would then result in adjournment of the hearing of the case.
If evidence has to be taken outside of the territorial jurisdiction of the court hearing the case, the latter may, by letter of request, order the performance of the procedural act by the court within the territorial jurisdiction of which the evidence can be taken. A letter of request is complied with pursuant to the rules established for the performance of the procedural act applied for in the letter of request. The participants in proceedings are notified of the time and place of the procedural act; however, the absence of a participant in proceedings does not prevent compliance with the letter of request. Minutes of procedural acts and evidence taken upon compliance with a letter of request are sent to the court hearing the case without delay. If, in the course of the taking of evidence by the court conducting proceedings on the basis of a letter of request, a dispute arises which may not be resolved by that court but continuation of the taking of evidence depends on the resolution of the dispute, the court hearing the main case will resolve the dispute. If the court complying with a letter of request

finds that in order to better adjudicate the case, it would be reasonable to transfer the duty of taking of evidence to another court, it will submit a request to this effect to the other court and inform the participants in proceedings thereof.
Evidence taken in a foreign state pursuant to the legislation of such state may be used in the civil courts of Estonia unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of Estonian civil procedure. The panel of the court which requested the taking of evidence pursuant to the Council Regulation (EC) No 1206/2001 on co-operation between the courts of the Member States in the taking of evidence in civil or commercial matters or a judge acting on the basis of an order may, in accordance with said Regulation, be present at and participate in the taking of evidence by a court of a foreign state. The participants in proceedings, their representatives and experts may participate in such taking of evidence to the same extent as they may participate in the taking of evidence in Estonia. The court panel hearing the case, a judge acting on the basis of an order or an expert appointed by the court may participate in such direct taking of evidence by an Estonian court in another EU Member State, which is permitted by Article 17(3) of the Regulation.
If evidence must be taken elsewhere than in an EU Member State, the court will request the taking of evidence through a competent authority pursuant to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. The court may also take evidence in a foreign state by intermediation of the ambassador representing the Republic of Estonia in such state or a competent consular official unless it is prohibited under the law of the foreign state.
The party who provided evidence or requested the taking thereof may waive and withdraw evidence only with the consent of the opposing party, unless otherwise provided by law.

1.6 Written procedure

A simplified procedure case may be reviewed in a written procedure. The court will then guarantee that the fundamental rights and freedoms and the essential procedural rights of the participants in proceedings are observed and that a participant in proceedings will be heard if he or she so requests. A court session need not be held for this purpose. The court may waive a written pre-trial procedure or the court session.

1.7 Content of judgment

A judgment consists of an introduction, conclusion, descriptive part and statement of reasons.
The introduction of a judgment sets out:
the name of the court which made the judgment;
the name of the judge who made the judgment;
the time and place of making the judgment public;
the number of the civil case;
the object of the action;
the value of the civil case;
the names and personal identification codes or registry codes of the participants in proceedings;
the addresses of the participants in proceedings if this is clearly necessary for the enforcement or recognition of the judgment;
the names of the representatives of the participants in proceedings and if the representatives have been substituted, the names of the latest representatives;
the time of the last court session or a reference to the case being reviewed in written procedure.
The descriptive part of a judgment indicates, concisely and in a logical order, the relevant content of the claims filed and the allegations made, counterclaims submitted and evidence provided with respect to such claims.
The statement of reasons of a judgment sets out the facts established by the court, the conclusions reached on the basis thereof, the evidence on which the conclusions of the court are based and the Acts which were applied by the court. In a judgment, the court must substantiate its reasons for not agreeing with the statements of fact made by the plaintiff or the defendant. The court must analyse all evidence in a judgment. If the court disregards any evidence, it must justify this in the judgment. If one of the alternative claims is granted, the denial of another alternative claim need not be substantiated.
In the **simplified procedure** a court may make a judgment by omitting the descriptive part and statement of reasons or only indicate in the statement of reasons the legal reasoning and the evidence on which the conclusions of the court are based.
In the conclusion of a judgment, the court clearly and unambiguously adjudicates the claims of the parties and any requests of the parties which have not yet been resolved, as well as any issues related to the measures for securing the action which have been applied. The conclusion must be clearly understandable and enforceable even without the text of the rest of the judgment.
The conclusion also sets out the procedure and term for appealing the judgment and, among other things, specifies the court with which the appeal should be filed, and makes a reference to the fact that unless a review of the case at a court session is requested in the appeal, the appeal may be reviewed in written procedure. A judgment by default sets out the right to file a petition to set aside the default judgment. The conclusion also explains that if an appellant would like to request procedural assistance for lodging an appeal (e.g. release from the payment of the state fee on the appeal), the relevant procedural act must be performed, i.e. appeal filed, within the appeal term in order to comply with the time-limits of the proceeding.

1.8 Reimbursement of costs

General principles:
The costs of an action are covered by the party against whom the court decides.
The party against whom the court decides is required to compensate the other party for both court costs as well as any necessary extra-judicial costs which arose as a result of the proceedings before the court.
Court costs include the state fee, security and costs essential to proceedings. Costs essential to proceedings are: (a) the costs related to witnesses, experts, interpreters and translators as well as the costs of persons not participating in proceedings incurred in connection with examinations to be compensated for pursuant to the Forensic Examination Act (kohtuekspertiisiseadus); (b) the costs related to obtaining documentary evidence and physical evidence; (c) the costs related to inspection, including necessary travel expenses incurred by the court; (d) the costs of service and sending of procedural documents through a bailiff or in a foreign state or on or to extra-territorial citizens of the Republic of Estonia; (e) the costs of issuing procedural documents; (f) the costs related to the determination of the value of the civil case. Extra-judicial costs are among other things: (a) the costs related to the representatives of the participants in proceedings; (b) travel, postal, communications, accommodation and such other costs of the participants in proceedings which are incurred in connection with the proceedings; (c) unreceived wages or salaries or other unreceived permanent income of the participants in proceedings; (d) the costs of pre-trial proceedings provided by law unless the action is filed more than six months after the end of the pre-trial proceedings; (e) a bailiff's fee for securing an action and the costs related to the enforcement of a ruling on the securing of an action; (f) a bailiff's fee for serving procedural documents; (g) a bailiff's fee for enforcement of a European preservation order made on the basis of Regulation (EU) No 655/2014 of the European Parliament and of the Council and the costs related to the enforcement of a European preservation order as well as the fee of the Chamber of Bailiffs and Trustees in Bankruptcy (Kohtutäiturite ja Pankrotihaldurite Koda) for reviewing the request for obtaining information submitted on the basis of the same order; (h) the costs related to the processing of an application for procedural assistance towards the payment of procedural expenses; (i) the costs of participation in conciliation if the court has imposed an obligation on the parties to participate in such a proceeding.

The procedural expenses of a legal representative of a party are reimbursed according to the same rules that apply to the reimbursement of the procedural expenses of the party.
In the event that an action is granted partially, the parties will cover the procedural expenses in equal parts unless the court divides the procedural expenses in proportion to the extent to which the action was granted or decides that the procedural expenses must be borne, in part or in full, by the parties themselves. The division of procedural expenses is indicated in the final decision. The amounts of the expenses are determined pursuant to the rules regarding the determination of procedural expenses either in the final decision made on the merits of the dispute or in a separate ruling to be made after the final decision made on the merits of the dispute has taken effect.

1.9 Possibility to appeal

In the judgment made in a simplified procedure case, a county court may set out that it grants leave to appeal the judgment. The county court will grant leave if, in its opinion, the decision of the court of appeal is necessary for the purpose of obtaining the latter's position on a legal provision. The grant of a permission to appeal need not be justified in the judgment.
In the conclusion of a judgment made in the simplified procedure the court also sets out the procedure and term for appealing the judgment. A circuit court may hear an appeal lodged in a simplified procedure case irrespective of the county court's leave to appeal and an appeal may be filed irrespective of the county court's permission. If a county court has not granted leave to appeal, a circuit court may hear the appeal if the judgment made by the county court could have been influenced by an obvious error in applying the law or establishing facts. A circuit court may, however, refuse to hear an appeal of low value, but only in the event that the resolution of the county court is probably right and further hearing of the case on appeal would merely incur unnecessary costs in terms of both time and money. A circuit court may not refuse to admit an appeal for the sole reason that it is a simplified procedure case. A party or a third party with independent claim may appeal against a judgment made by a court of first instance in the European Small Claims Procedure to the circuit court of the jurisdiction of the county court which made the judgment being appealed against. A third party without an independent claim may file an appeal if it does not contradict the appeal of the plaintiff or the defendant in whose support the third party is participating in proceedings. The same term for filing an appeal or making other procedural acts applies to a third party as applies to the plaintiff or the defendant in whose support the third party is participating in proceedings.
An appeal may not be filed if both parties have waived, by a petition submitted to the court, their right of appeal.
An appeal may be filed within 30 days of serving the judgment on the appellant but not later than within five months of the date the judgment of the court of first instance was made public.
If, during the term for appeal, a supplemental judgment is made in the case, the term for appeal of the initial judgment will also begin to run again as of the date of serving the supplemental judgment. If a judgment made without the descriptive part or statement of reasons is supplemented with the omitted part, the term for appeal will begin to run again as of the service of the full judgement.
The term for appeal may be reduced, or increased for up to five months of making the judgment public if the parties reach a corresponding agreement and inform the court thereof.
An appeal may only state that the judgment of the court of first instance is based on a violation of a rule of law or indicate that, pursuant to the circumstances and evidence which must be taken into consideration in the appeal procedure, a judgment different from that made by the court of first instance should be made.
Among other things, an appeal sets out the following: (1) the name of the court which made the judgment appealed, the date of the judgment and the number of the civil case; (2) the clearly expressed request by the appellant which specifies the extent to which the appellant contests the judgment of the court of first instance and sets out the decision of the circuit court which the appellant requests; (3) the reasoning of the appeal; (4) the time of service of the judgment appealed.
The reasoning of an appeal must specify: (1) the rule of law which the court of first instance has violated in the judgment or upon making the judgment, or the fact which the court of first instance has established incorrectly or insufficiently; (2) the reason for the violation of the rule of law or the incorrect or insufficient establishment of the fact; (3) a reference to the evidence which the appellant wishes to submit in proof of each statement of fact.
Documentary evidence which was not submitted to the court of first instance and which the appellant requests that the court accept is annexed to the appeal. If new facts and evidence are specified as the reason for filing an appeal, the appeal must set out the reason for not submitting such facts and evidence to the court of first instance.
If the appellant would like the court to hear a witness or obtain the statement of a participant in proceedings under oath, or to arrange an expert assessment or inspection, this must be indicated in the appeal together with the reason for this. In such a case, the names and addresses of the witnesses or experts, and their contact numbers, if known, must be included in the appeal.
If the appellant would like the case to be heard at a court session, the appellant must indicate this in the appeal. Otherwise the appellant is deemed to agree to adjudication of the case by written procedure.
If a court has made a judgment without the descriptive part or statement of reasons, the county court must, within ten days of serving the judgment, be notified of the intention to appeal the judgment. The court will then add the omitted parts to the judgment in written procedure. If omitted parts are added to a judgment, the term for filing an appeal will commence again from the service of the supplemental judgment. A participant in proceedings on appeal may file an appeal against a judgment of the circuit court with the Supreme Court if the circuit court has materially violated a provision of procedural law or incorrectly applied a provision of substantive law. A third party without an independent claim may file an appeal in cassation on the conditions provided for in the Code of Civil Procedure.
An appeal in cassation cannot be filed if both parties have waived, by a petition submitted to the court, their right of appeal.
An appeal in cassation may be filed within 30 days of the date on which the judgment was served on the appellant in cassation but not more than five months after the date on which the judgment of the circuit court was made public.
In order to request the review of a judgment under Article 18, an application to set aside the default judgment must be filed with the county court which heard the application. An application to set aside a default judgment is to be filed with the county court which made the default judgment within 30 days of the default judgment being served. If a default judgment is served by public announcement, a petition to set aside the default judgment may be filed within 30 days of the date on which the defendant became aware of the default judgment or of the enforcement proceedings commenced to enforce the default judgment.

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Small claims - Ireland

1 Existence of a specific small claims procedure

Yes such a procedure exists under Irish law as an alternative method of commencing a small civil claim. [See the District Court (Small Claims Procedure) Rules 1997 and 1999). It is a service provided by District Court offices and is designed to handle consumer claims cheaply without involving a solicitor. It is also possible to initiate proceedings involving Small Claims (i.e. certain claims to a maximum value of €2,000) via the Internet.

1.1 Scope of procedure, threshold

The types of claim covered by the small claims procedure are:

(i) a claim for goods or services bought for private use from someone selling them in the course of a business (consumer claims)

(ii) a claim for minor damage to property (but excluding personal injuries)

(iii) a claim for the non-return of a rent deposit for certain kinds of rented properties. For example, a holiday home or a room/flat in a premises where the owner also lives provided that a claim does not exceed €2,000.

Claims in respect of matters relating to landlord/tenant claims or rented accommodation that are not covered by the small claims procedure may be brought to the Residential Tenancies Board, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2. Website: Home

Excluded from the small claims procedure are claims arising from:

(i) a hire-purchase agreement

(ii) a breach of a leasing agreement

(iii) debts

1.2 Application of procedure

To be eligible to use the procedure, the consumer must have bought goods or services for private use from someone selling them in the course of business. The procedure is also available for use by one business person against another since January 2010. The District Court Clerk, called the Small Claims Registrar, processes small claims. Where possible, the registrar will negotiate a settlement between the parties without the need for a court hearing. If the matter cannot be settled, the registrar will bring the claim before the District Court for hearing.

The claimant must be sure of the name and address of the person or company against whom they wish to bring their claim. If it is a company they must use the exact legal title. These details must be accurate in order to enable the Sheriff to execute the Court Order (Decree).

If the Small Claims Registrar receives a notice from the respondent disputing the claim or making a counterclaim, the Registrar will contact the claimant and let them have a copy of the respondent's answer or reply to the claim. The Registrar may interview and negotiate with both parties to try to reach an agreement.

If the respondent admits the claim he/she is required to notify the Registrar's office by returning a Notice of Acceptance of Liability form. If the respondent does not reply, the claim will be automatically treated as undisputed. The District Court will then make an order in favour of the claimant (without the necessity of the claimant to attend court) for the amount claimed, and direct that it be paid within a short specific period of time.

1.3 Forms

The Small Claims Registrar will provide a claimant with the application form or it may be downloaded from the Courts Service website at https://www.courts.ie

1.4 Assistance

As the purpose of the small claims procedure is to handle consumer claims cheaply without involving a solicitor, generally legal assistance or advice is unnecessary for these types of claims.

1.5 Rules concerning the taking of evidence

If the matter goes to court, the parties must attend the District Court hearing. The case will be heard in public as part of a normal sitting of the District Court. When the case is called the Court Registrar will call the claimant to the witness box to give evidence. Evidence must be given under oath or affirmation and the respondent can cross-examine the claimant on matters relating to the claim. The respondent will also be given an opportunity to give evidence. Each witness can be subject to cross examination by the opposing party or by their legal representatives if present. The parties are also entitled to call witnesses or to submit reports from witnesses but they will not be able to recover the costs of so doing as the procedure was not designed to cover such expenses but was instead intended to facilitate the bringing of small claims in a relatively inexpensive forum.

1.6 Written procedure

If the matter is not settled by the small claims Registrar, then on the day of the hearing, the claimant must bring documentary evidence supporting the claim, for example any relevant letters, receipts or invoices. In addition to this, both parties will be given an opportunity to give oral evidence and may be cross-examined.

1.7 Content of judgment

If the claimant succeeds, the District Court will then make an order in favour of the claimant for the amount claimed, and direct that it be paid within a short specific period of time.

1.8 Reimbursement of costs

While the parties may engage the services of a legal advisor, they will not be entitled to recover the costs of so doing from the other party even if they are successful at the hearing. The whole point of the small claims procedure is to facilitate the bringing of a claim without the need for a solicitor or barrister.

1.9 Possibility to appeal

Both the claimant and the respondent have the right to appeal an order of the District Court to the Circuit Court. Costs may be awarded by the Circuit Court but that is a matter for the individual Circuit Court judge to decide.

Related links

https://www.courts.ie

https://www.courts.ie/small-claims

http://www.citizensinformation.ie/en/justice/courts_system/small_claims_court.html

https://www.courts.ie/small-claims

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Small claims - Greece

1 Existence of a specific small claims procedure

Is there a Small Claims Procedure in Greece (i.e. a specific procedure which is simplified procedurally with respect to the ordinary procedure and which applies in cases below a certain monetary threshold or in certain types of litigation regardless of a monetary threshold)?

Articles 466-469 of Chapter M of the Code of Civil Procedure contains special provisions for small claims.

1.1 Scope of procedure, threshold

The special provisions for small claims apply: 1) Where the subject matter of the dispute falls within the jurisdiction of the small claims court and concerns claims, rights over movable property or its title, and its value is not greater than EUR 5 000, and 2) Where the value of the subject matter of the dispute is greater than EUR 5 000, if the complainant states that they agree to accept a sum of no more than EUR 5 000 in satisfaction of their claim in lieu of the claim made in their complaint. In this case, the defendant shall be ordered either to pay the claim made or the value thereof in the judgment passed by the small claims court.'

1.2 Application of procedure

The procedure is obligatory.

The court or the opposing parties may not use the normal procedure for small claims instead of the special small claims procedure.

1.3 Forms

A Presidential Decree on the activation of standard documents for small claims (ongoing) is pending.

1.4 Assistance

Is there assistance in procedural issues (e.g. by the court clerk or judge) for litigants not represented by a lawyer? If so, to what extent?

The party may appear before the court alone or represented by a lawyer.

1.5 Rules concerning the taking of evidence

Are there certain rules concerning the taking of evidence and are they simplified compared with the ordinary procedure? If so, which rules and to what extent?

The magistrate ruling in the special small claims procedure may deviate from the procedural rules and also take into account evidence which does not meet the legal conditions.

1.6 Written procedure

The claim must be filed with the registry of the small claims court. The claim shall include a) a clear statement of the facts which substantiate the claim in accordance with the law and justify the complaint being filed by the complainant against the defendant, b) a precise description of the matter in dispute, and c) a specific request.

1.7 Content of judgment

1.8 Reimbursement of costs

Costs are not reimbursed.

1.9 Possibility to appeal

Small claims decisions cannot be appealed.

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Small claims - Spain

1 Existence of a specific small claims procedure

Yes, the oral hearing procedure for claims of up to EUR 6 000. Without prejudice to the possible application of the European small claims procedure, which is governed by REGULATION (EC) No 861/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL in cases where sufficient budget is available for its application.

1.1 Scope of procedure, threshold

Claims of up to EUR 6 000 require an oral hearing.

1.2 Application of procedure

By means of an application submitted in writing. This takes the form of a standard application, unless the claimant is not using the services of a lawyer (*abogado*) and court representative (*procurador*), in which case the application can be brief.

1.3 Forms

There are no mandatory standard forms. However, the Senior Judges' Offices (*Decanatos*) provide standard forms that can be used for claims of up to EUR 2 000. The claimant can use them to write an application and the respondent to reply to it.

These forms can be downloaded from the website of the General Council of the Judiciary: Consejo General del Poder Judicial.

If the claim exceeds EUR 2 000, the involvement of a lawyer and court representative is mandatory; the claim cannot be enforced or contested without such legal representation.

If the claim is not contested by the respondent, this does not mean that the amount of the claim will be upheld but simply that the respondent has defaulted, and the proceedings will continue.

1.4 Assistance

Claimants may appear at the oral hearing in person, but if the amount of the claim exceeds EUR 2 000, the involvement of a lawyer and a court representative is mandatory.

If the claimant does not appear at the hearing, either represented by a lawyer and court representative or in person if the involvement of a legal representative is not required, it will be considered that the claim has been withdrawn, unless the respondent has a legitimate interest in the claim and requests that the proceedings be continued for delivery of a final judgment on the merits.

If the respondent does not appear in person, the proceedings will continue.

1.5 Rules concerning the taking of evidence

The general rules regarding evidence apply: any kind of evidence is admissible, and it is possible to request and produce evidence before the hearing itself.

1.6 Written procedure

Both the claim and the defence are in written form. Issues relating to the proceedings are resolved in the course of the hearing. However, incidental issues cannot be raised once the evidence proposed has been declared admissible. Similarly, evidence is provided orally and primarily during the hearing.

1.7 Content of judgment

The judgment is reasoned and delivered in writing as in any other proceedings.

1.8 Reimbursement of costs

If a lawyer and court representative are mandatory, and there is an order to pay costs, the party in whose favour costs are ordered may recover the costs of the proceedings, after these have been assessed and provided they do not exceed one third of the amount of the proceedings for each of the litigants included in the order.

If the litigant who has been awarded costs does not reside in the location of the hearing, the court representative's expenses may be reimbursed, even if their involvement is not mandatory.

1.9 Possibility to appeal

An appeal may be launched against the judgment if the amount of the case exceeds EUR 3 000. The appeal is lodged with the same court, in writing and within a maximum period of 20 days.

The jurisdiction to hear the appeal lies with the Provincial Court (*Audiencia Provincial*), which will be constituted by a single judge, and no further appeal against the latter's judgment is possible, although an appeal on a point of law against those judgments has been allowed in some autonomous communities with their own civil law.

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Small claims - France

1 Existence of a specific small claims procedure

Procedures for small claims can be brought by application before local courts (*chambres de proximité des tribunaux judiciaires*) and before judges for protection disputes (*juges des contentieux de la protection*), in accordance with Articles 756 et seq. of the Code of Civil Procedure.

The procedure is oral but the parties may submit written conclusions if they so wish.

The application may mention the applicant's agreement for the procedure to take place without a hearing (Article 757 of the Code of Civil Procedure). Article 828 of the Code of Civil Procedure also allows the parties to expressly give their agreement at any stage for the procedure to take place without a hearing. This procedure without a hearing has been in force since 1 January 2020 and was inspired by the European Small Claims Procedure.

The registry summons the parties to the hearing by registered letter with acknowledgement of receipt. If the defendant did not receive this letter, the judge may ask the claimant to have it delivered by a bailiff (*huissier de justice*).

The legal proceedings must be preceded by an attempt at conciliation by a legal conciliator, an attempt at mediation or an attempt at a participatory procedure, at the choice of the parties, failing which the judge may rule of his/her own motion that the application is inadmissible.

Legal representation is not compulsory. The parties may be represented by their spouse, cohabiting partner, the person with whom they have entered into a civil solidarity pact, their relatives by blood or by marriage, in the direct or a collateral line, or the persons they employ.

1.1 Scope of procedure, threshold

The claim must not exceed EUR 5,000 and must fall within the jurisdiction of the local court or the judge for protection disputes.

1.2 Application of procedure

1.3 Forms

There is a form for referral to the court.

The CERFA No 11764*08 form is available on the website of the French government, at all litigant reception services (*Services d'Accueil Unique du Justiciable*) and on www.justice.fr.

1.4 Assistance

Since this is a simple procedure involving amounts not exceeding EUR 5,000 and the parties are heard by the judge unless they agree on a procedure without a hearing, no aid is provided for by the law. However, the parties may be assisted or represented by a lawyer, including after having applied for legal aid.

1.5 Rules concerning the taking of evidence

The rules of evidence are similar to those under the ordinary procedure.

1.6 Written procedure

Except in cases where the parties agree on a procedure without a hearing, there is no purely written procedure in the context of such proceedings by application.

1.7 Content of judgment

The rules applicable to the judgment are the same as those under the ordinary procedure.

1.8 Reimbursement of costs

The applicable rules are the same as for other procedures. However, as this procedure in principle does not require the appointment of a lawyer or legal representation, the related costs are lower.

1.9 Possibility to appeal

In view of the amounts concerned by such claims, there is no possibility of appeal. The judgment can only be opposed (if the defendant did not receive the summons to the hearing) or referred for cassation (if the defendant received the summons to the hearing).

Related links

Website of the Ministry of Justice (Ministère de la Justice)

Legifrance website

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Small claims - Croatia

1 Existence of a specific small claims procedure

In the Republic of Croatia small claims are governed by Articles 457-467a of the Civil Procedure Act (*Zakon o parničnom postupku*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 53/91, 91/92, 112/99, 129/00, 88/01, 117/03, 88/05, 2/07, 84/08, 96/08, 123/08, 57/11, 25/13, 89/14 and 70 /19), while the European small claims procedure under Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure is governed by Articles 507o - 507ž of the Civil Procedure Act.

1.1 Scope of procedure, threshold

Small claims before municipal courts (*općinski sudovi*) are claims for not more than HRK 10,000.00.

Small claims before commercial courts (*trgovački sudovi*) are claims for not more than HRK 50,000.00.

Small claims also means claims where the statement of claim is not for an amount of money, but the applicant has stated in the action that they agree to receive a specific amount of money not exceeding HRK 10,000.00 (in municipal courts) or HRK 50,000.00 (in commercial courts) instead of their claim being granted.

Small claims also means claims where the statement of claim does not concern a sum of money but the transfer of movable property whose value, as stated by the applicant in the action, does not exceed HRK 10,000.00 (in municipal courts) or HRK 50,000.00 (in commercial courts).

Under current arrangements, European small claims procedures are governed by Regulation (EC) No 861/2007 if the value of the claim does not exceed EUR 2,000 at the time the claim form is received by the court with jurisdiction, excluding all interest, expenses and fees.

1.2 Application of procedure

Small claims procedures are conducted before a local or commercial court under the rules on subject-matter jurisdiction laid down in Articles 34 and 34b of the Civil Procedure Act. Small claims procedures are initiated by submitting a claim to the competent court, i.e. by submitting an application for enforcement based on an authentic document to a notary public when an admissible objection to a writ of execution has been submitted in a timely fashion.

1.3 Forms

Forms, other claims or declarations are submitted in written form, by fax or e-mail and are used only for European small claims procedures under Regulation (EC) No 861/2007.

There are no other set forms to initiate an action in small claims procedures.

1.4 Assistance

The Civil Procedure Act has no particular provisions on legal aid in small claims procedures. A claimant may be represented by an attorney during a small claims procedure.

If the requirements of the Free Legal Aid Act (*Zakon o besplatnoj pravnoj pomoći*) (NN Nos 143/13 and 98/19) have been fulfilled, the litigants have the right to free legal aid.

Information on the free legal aid scheme in Croatia can be found on the following website: https://pravosudje.gov.hr/besplatna-pravna-pomoc/6184.

1.5 Rules concerning the taking of evidence

In small claims procedures, the parties must present all the facts on which they are basing their claim no later than when submitting the action or defence statement and submit any evidence required to support the facts presented.

In small claims procedures concerning an objection to a payment order, the applicant is obliged to present all the facts on which they are basing their claims and to submit any evidence required to support the facts presented no later than when making the submission to the court within 15 days of receipt of the decision cancelling the payment order.

In small claims procedures concerning an objection to a payment order, the defendant is obliged to present all the facts on which they base their claims and to submit any evidence required to support the facts presented no later than 15 days following receipt of the applicant's submission in which the applicant presents all the facts on which they are basing their claims and submits any evidence required to support the facts presented.

The parties may present new facts or put forward new evidence at a preliminary hearing, only if, through no fault of their own, they could not present or put them forward in the action or defence statement or in the submissions under the above-mentioned provisions setting out all the facts on which they are basing their claims and presenting the evidence to support the facts presented.

New facts and evidence presented or put forward by the parties at the preliminary hearing contrary to the provisions set out above will be disregarded by the court.

The general provisions of the Civil Procedure Act apply to the taking of evidence. Evidence in small claims procedures may, therefore, consist of inspections, documents, witness statements, experts' reports ordered by a court and evidence given by the parties, and the Court decides which of the submitted evidence is to be used to establish the facts of the case.

Further information on evidence and the taking of evidence is set out in the information package entitled 'Taking of evidence – Republic of Croatia' (*Izvođenje dokaza – Republika Hrvatska*).

1.6 Written procedure

Small claims procedures are conducted in writing.

In small claims procedures the claim is always served on the defendant to enable that party to submit observations, and when the court summons the parties to the preliminary hearing it will inform them that: an applicant is considered to have withdrawn the action if they fail to attend the preliminary hearing; that no new facts may be presented or evidence put forward at that hearing, except in the cases set out in the sixth paragraph of Article 461a of the Civil Procedure Act (where the parties were prevented, through no fault of their own, from presenting any facts or putting forward evidence in the claim or the statement of defence or in the submissions referred to in the third and fourth paragraphs of Article 461a of the Civil Procedure Act); that it will complete the preliminary ruling proceedings and hold the main hearing at the preliminary hearing except where this is not possible due to the circumstances of the case, as referred to in the sixth paragraph of Article 461a of the Civil Procedure Act; and that the decision may be appealed only on the grounds of erroneous application of substantive law and material infringements of the provisions on civil procedure referred to in the second paragraph of Article 354 of the Civil Procedure Act, apart from point 3 of that paragraph, which are:

• point 1 – if a judgment has been issued with the involvement of a judge who, by law, should have been excluded (points 1 to 6 of the first paragraph of Article 71 of the Civil Procedure Act) or who has been excluded by a court decision, or with the involvement of a person who is not a judge;

• point 2 – if a decision was made on a claim in a dispute that does not come under judicial competence (Article 16 of the Civil Procedure Act);

• point 4 – if, contrary to the Civil Procedure Act, the court based its decision on inadmissible steps taken by the parties with respect to claims (third paragraph of Article 3 of the Civil Procedure Act);

• point 5 – if, contrary to the Civil Procedure Act, the court gave a judgment based on admission of the claim, a judgment based on waiver of the claim, a default judgment or a judgment without trial;

• point 6 – if by illegal actions, particularly by failure of service, any party was not granted the possibility to be heard by the court;

• point 7 – if, contrary to the Civil Procedure Act, the court rejected a party's request to use their language or script in the proceedings and to follow the course of the proceedings in their own language, and the party has lodged an appeal on those grounds;

• point 8 – if a person who cannot be a party to the procedure participated in it either as an applicant or as a defendant, or if a legal person was not represented as a party by an authorised person, or if an incapable party was not represented by a legal representative, or if the legal representative or attorney in fact did not have the requisite authorisation to litigate or take certain procedural actions, or where certain procedural actions were not authorised subsequently;
• point 9 – if a decision was made about a claim in respect of which litigation was already pending, or about which a legally effective judgment had already been given, or if a court settlement or a settlement which, under special legislation, has the characteristics of a court settlement has already been reached;
• point 10 – if the public was excluded from the main hearing, contrary to the law;
• point 11 – if the judgment has defects due to which it cannot be examined, and particularly if the operative part of the judgment is incomprehensible, if the operative part is self-contradictory or if it contradicts the grounds of the judgment, or if the judgment does not specify the grounds for decisive facts, or if there is a contradiction regarding the decisive facts between what is specified in the grounds for the judgment about the contents of documents or minutes relating to testimonies given during the proceedings and the actual documents and minutes themselves;
• point 12 – if the judgment exceeded the claim;
• point 13 – if a decision has been made on a claim that was not submitted by the deadline, which meant that it should have been dismissed as inadmissible (first paragraph of Article 282 of the Civil Procedure Act);
• point 14 – if the procedure laid down in law for mediation or other alternative settlement had not been conducted before the claim was brought, which meant that the claim should have been dismissed.
If the party has temporary or permanent residence outside the Republic of Croatia and their address is known, the court documents are served in accordance with the international rules binding on the Republic of Croatia and in accordance with EU legislation, specifically with regard to the procedure referred to in Article 13 of Regulation (EC) No 861/2007.

1.7 Content of judgment

Since there are no special provisions on the content of the judgment in small claims procedures, the general provisions of the of the Civil Procedure Act apply, i.e. Article 338 of the Civil Procedure Act, which states that a written version of the judgment must contain a formal introduction, an operative part and a statement of grounds.
The introduction to the judgment must contain: an indication that the judgment is being issued in the name of the Republic of Croatia; the title of the court; the name and surname of the single or presiding judge, judge-rapporteur and panel members, the name and surname or title, personal identification number and residence or registered office of the parties, their legal representatives and agents; a brief indication of the subject of dispute; the date on which the main hearing was concluded; an indication of the parties, their legal representatives and agents who attended that main hearing; and the date when the judgment was given.
The operative part of the judgment must contain the court's decision on the acceptance or rejection of the specific claims on the merits and of secondary claims, as well as a decision on the existence or non-existence of the claim put forward for settlement (Article 333 of the of the Civil Procedure Act).
In the statement of grounds the court briefly outlines the parties' claims, the facts they presented and the evidence on which those claims are based. The court also indicates and explains which of those facts it sought to establish, why and how it established those facts, and if it established them by hearing evidence, which evidence was put forward and why and how it was assessed. The court specifically states which provisions of substantive law have been applied in the ruling on the parties' claims and states its position, if required, on the views of the parties on the legal grounds for the dispute and on any motions or objections about which it did not set out grounds in the decisions it made in the course of the proceedings.
The statement of grounds for a default judgment, a judgment based on admission of a claim or judgment based on waiver of the claim need only indicate the grounds for giving such judgments.

1.8 Reimbursement of costs

A decision on the reimbursement of costs for small claims procedures is issued on the grounds of the general provisions of the Civil Procedure Act; the party that loses a case completely is obliged to reimburse the costs of the opposing party and their intervener.
If the parties are partially successful in the case, the court first determines the percentage of success of each of them and then subtracts the percentage of success of the less successful party from the percentage of success of the more successful party, after which it establishes the amount of the specific and total costs of the more successful party in the case that were necessary for proper conduct of the procedure and then reimburses that party for the part of such total costs corresponding to the percentage remaining after taking account of the parties' percentages of success in the case. The proportion of success in the case is assessed on the basis of the claims granted, account also being taken of the success in providing evidence to back up the claims.
Irrespective of the above, the court may order each party to reimburse the other party for specific costs by virtue of the first paragraph of Article 156 of the Civil Procedure Act, which states that, irrespective of the outcome of the case, a party is to reimburse the opposing party for the costs incurred through their own fault or by an event that they suffered.
If the parties had roughly equal degrees of success in the case, the court may order each party to bear their own costs or one party to reimburse the other only for specific costs by virtue of the first paragraph of Article 156 of the Civil Procedure Act.
The court may decide that one party should pay all the costs incurred by the opposing party and their intervener if the opposing party was unsuccessful in only a relatively minor part of their claim and separate costs were not incurred for that part.
However, regardless of the outcome of the case, a party is obliged to reimburse any costs of the opposing party resulting from their own fault or from events that they suffered.

1.9 Possibility to appeal

Appeals are governed by the general provisions of the Civil Procedure Act. Under those provisions, in small claims procedures, the parties may lodge an appeal against the first instance judgment or decision within 15 days of the date on which the transcript of the judgment or decision was served.
The judgment or decision concluding the small claims procedure may be challenged solely on the grounds of erroneous application of substantive law or material infringements of the provisions on civil procedure referred to in the second paragraph of Article 354 of the Civil Procedure Act, except for the infringement referred to in point 3 of that paragraph.

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Small claims - Italy

1 Existence of a specific small claims procedure

There is no specific procedure for small claims. Small claims are heard by the justice of the peace (*giudice di pace*).

As a general rule, proceedings before the justice of the peace are kept as simple as possible (Sections 316-318 of the Code of Civil Procedure).

1.1 Scope of procedure, threshold

Justices of the peace have jurisdiction in disputes involving movable assets with a value of €5 000 or less, unless the law specifically provides otherwise. Actions brought for damages in connection with vehicular and water traffic accidents are also heard by the justice of the peace, provided that the value involved does not exceed €20 000.

Irrespective of the value involved, the justice of the peace hears all cases involving:

the setting of boundaries and observance of distances for the planting of trees and hedges as established by law, regulation or custom;

the scope and use of apartment building services;

relations between owners or occupiers of dwellings concerning smoke, fumes, heat, noise, vibrations and similar nuisances exceeding normal levels;

interest or incidentals for late payment of pension or welfare benefits.

By Law No 57 of 28 April 2016, the Italian Parliament empowered the Government to reform the system of honorary judges. The empowerment also provides for the jurisdiction of honorary judges to be extended by raising the ceiling for the value of the cases they deal with from €5 000 to €30 000, and to €50 000 in cases of compensation for damage or injury caused by traffic accidents. The empowerment has not yet been implemented, so the new rules do not yet apply.

1.2 Application of procedure

Actions brought before a justice of the peace begin with a summons (*citazione*) to appear in court at an appointed hearing. A claim may also be lodged orally, in which case the justice of the peace records it in a document that the claimant serves on the defendant with a summons to appear in court at an appointed hearing (Section 316 of the Code of Civil Procedure). The application must name the court and the parties and set out the facts and the subject-matter of the case. The time limit between the day of service of the summons and that of appearance is half that allowed before the general court (tribunale), i.e. 45 days (Section 318 of the Code of Civil Procedure). In the first hearing, the justice of the peace questions the parties at his or her discretion and makes an attempt at conciliation: if this is successful, the settlement arrived at is recorded. If the attempt at settlement fails, the justice of the peace will ask the parties to provide a full account of the facts supporting their claims, defences and objections, and to submit documents and any other evidence. If it appears necessary in the light of the conduct of the case by the parties at the first hearing, the justice of the peace will schedule, once only, a new hearing to allow the submission and taking of additional evidence. The documents submitted by the parties can be included in the case file and kept there until the case is adjudicated.

1.3 Forms

There are no set forms.

1.4 Assistance by a lawyer

Where the value of the case does not exceed €1 100, the parties may represent themselves before the justice of the peace (Section 82 of the Code of Civil Procedure; see the factsheet on 'How to bring a case to court').

In all other cases, the parties must be assisted by a lawyer. However, the justice of the peace may, on the basis of the nature and scope of the case, allow a party to act as a litigant in person, at the party's own oral request or otherwise.

The judge checks that the parties have taken all the steps required for their appearance in court, and, where necessary, will ask them to complete or regularise any documents the judge finds to be defective.

If the judge finds any flaw in the power of attorney given to the lawyer, he or she will set a time limit within which the parties must remedy it. If the flaw is remedied within the time limit, the application is considered regularised, and its substantive and procedural effects will apply from the date of the first notification (Section 182 of the Code of Civil Procedure).

1.5 Rules concerning the taking of evidence

The rules on the taking of evidence are the same as for ordinary court proceedings (see the factsheet on 'Taking of evidence').

1.6 Written procedure

There is no provision for a purely written procedure, as justices of the peace are obliged to hear the parties and attempt to find a settlement.

1.7 Content of judgment

The rules of ordinary proceedings usually apply.

The empowerment to reform the system provides for honorary judges to be able to adjudicate 'ex aequo et bono' (on the grounds of fundamental fairness) without a specific reference to the legal rules, in cases up to a value of €2 500.

This option is currently open to justices of the peace in cases up to a value of €1 100.

1.8 Reimbursement of costs

Is there any restriction on the reimbursement of costs? If so, which?

Decisions awarding costs are taken on the basis of the normal rules, whereby the losing party has to pay the costs. However, the parties may each have to pay their own costs if both lose, or for some other good reason.

1.9 Possibility to appeal

The rules on judgments based on fundamental fairness (*sentenze di equità*, in disputes with a value not exceeding €1 100) were amended in 2006: such judgments are open to appeal only if there has been a breach of procedural rules, constitutional law or Community law, or of the principles governing the subject-matter.

These provisions apply to all judgments delivered from 2 March 2006 (Article 27 of Legislative Decree No 2006/40).

Judgments based on fundamental fairness delivered prior to that date can be appealed before the Court of Cassation (within the legal time limits) only on grounds of infringement of constitutional, Community or procedural rules, infringement of the principles governing the substance of the case, or lack of a proper statement of the grounds of the original judgment. Judgments delivered by the justice of the peace concerning administrative fines can be challenged only by extraordinary appeal to the Court of Cassation.

All other judgments delivered by the justice of the peace may be appealed.

See the factsheets on the judicial system, jurisdiction and how to proceed.

Related annexes

Code of Civil Procedure

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Small claims - Cyprus

1 Existence of a specific small claims procedure

There is no specific small claims procedure under the legal system of Cyprus other than that provided for in Regulation 861/2007, for the application of which a procedural regulation has been adopted.

1.1 Scope of procedure, threshold

1.2 Application of procedure

1.3 Forms

1.4 Assistance

1.5 Rules concerning the taking of evidence

1.6 Written procedure

1.7 Content of judgment

1.8 Reimbursement of costs

1.9 Possibility to appeal

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Small claims - Latvia

1 Existence of a specific small claims procedure

On 15 January 2018, amendments to the Law on civil procedure entered into force in Latvia, replacing the words "Small claims cases" with "Simplified procedure cases".

A judge initiates a simplified procedure on the basis of a written application if the principal debt or, in the case of a claim for recovery of maintenance, the total amount of payments, does not exceed EUR 2 500 on the date of submission of the claim. In the case of claims for recovery of maintenance, the total amount of payments applies to each child separately. (Article 250.19 (2) of the Law on civil procedure).

The simplified procedure is governed by Chapter 30 of the Law on civil procedure3: Article 250.18 – 250.27A and the following Articles in Chapter 54.1: Articles 440.1 – 440.12.

1.1 Scope of procedure, threshold

Simplified procedure cases apply only to claims for recovery of money and claims for recovery of maintenance (Article 35(1)(1) and (3) of the Law on civil procedure).

National legislative provisions governing the simplified procedure matters do not apply to the procedural rules relating to simplified procedure 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 regard to the procedure for appealing against decisions of a court of first instance.

A State fee (*valsts nodeva*) is payable for an application as follows (Article 34(1)(1) of the Law on civil procedure):

a) up to EUR 2 134, – 15% of the sum claimed, but no less than EUR 70,

b) from EUR 2 135 to EUR 7 114, i.e. EUR 320 plus 4% of the amount of the claim exceeding EUR 2 134.

In the case of claims for recovery of maintenance for a child or a parent, no State fee is payable.

1.2 Application of procedure

In hearing simplified procedure cases, the court follows the general court procedures in line with the civil procedure exceptions for simplified procedure cases. A judge initiates a simplified procedure on the basis of a written application.

The judge will not proceed on an application for simplified procedure case if the application is not drawn up in compliance with the template approved by the Cabinet of Ministers.

Where a judge takes a reasoned decision not to proceed on the application, they send the decision to the applicant and set a time limit for the rectification of deficiencies. This time limit may not be less than 20 days starting from the day of dispatching the decision. A judge's decision may be appealed against within 10 days of the date of issuing the judgment, or within 15 days of the date of service of the judgment if the individual’s place of residence is outside of Latvia.

1.3 Forms

A claim application and the respondent’s observations must be drawn up in accordance with the forms laid down in the annexes to Cabinet (*Ministru kabinets*) Regulation No 305 of 29 May 2018 on forms to be used in simplified procedure. The annexes to the Cabinet Regulation include the following forms:

1. Application for a simplified procedure for recovery of money (Annex 1);
2. Application for a simplified procedure for recovery of maintenance (Annex 2);
3. Statement in respect of a simplified procedure for recovery of money (Annex 3);
4. Statement in respect of an application for a simplified procedure for recovery of maintenance (Annex 4).

In addition to particulars of the applicant and the respondent, the following information must be included in the simplified procedure claim 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 an individual must be brought in the court of their declared place of residence, or in the case of a legal person the place of their registered office (if the claim relates to 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 located).

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

The applicant’s representative is to be indicated if the applicant wishes that their interests 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 an attorney-in-law (*zvērināts advokāts*), the representation must be confirmed by a retainer (*orderis*), and if the attorney is to act on the party’s behalf, this must be confirmed with a written power of attorney (which in this case does not need to be signed by a notary).

Subject matter of the claim: the form must indicate the contested rights and the legal relationships between the applicant and the respondent whose existence or non existence the applicant is asking the court to confirm, requesting the court to protect their rights or interests protected by law.

The method for calculating the amount of the claim: a simplified procedure claim 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 applicant bases their 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 applicant or their representative, or the applicant together with their 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 in simplified procedure cases. A person may be represented in a simplified procedure case.
If the applicant wants their interests to be represented in court by another person, and the application is made by the representative, the application must include the representative's name, surname, personal identity number and address for correspondence with the court or, if the representative is a legal person, the name, 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 Article 84 of the *Law on civil procedure*.
If another person is to act as a representative in court, a power of attorney certified by a notary must be drawn up. The applicant may designate a representative by oral application in court, and this must be recorded in the minutes of the hearing. A representative of a legal person must have a written power of attorney (which does not need to be notarised) or documents confirming that the person is an officer entitled to represent the legal person without special authorisation. If the representative is an attorney-in-law (*zvērināts advokāts*), the representation must be confirmed by a retainer (*orderis*), and if the attorney is to act on the party's behalf, this must be confirmed with a written power of attorney (which in this case does not need to be signed 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 simplified procedure cases, 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 a simplified procedure on the basis of a written application. The respondent is sent a copy of the application and a form for observations; the respondent must submit their observations within 30 days from the day the application was sent to them. Depending on the circumstances and nature of the case, documents annexed to the application may also be sent to the respondent. The court also informs the respondent that the absence of any observations on the respondent's part will not prevent judgment from being given in the case, and that the respondent may ask that the case be heard 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 a case for a hearing, which they may exercise no later than seven days before the date set for the hearing of the matter.
The respondent may submit their observations using a template approved by the Cabinet of Ministers. The template is one of the forms included in the annexes to Cabinet Regulation No 305 of 29 May 2018 on forms to be used in simplified procedure. The respondent must provide the following information in their observations:
the name of the court to which the observations are submitted;
the name, surname, personal identity number, and declared place of residence of the applicant, or failing that the applicant's de facto place of residence; or in the case of a legal person, the name, registration number and registered office thereof;
the name, surname and personal identity number and the declared place of residence of the respondent and the additional address declared by the respondent, or failing that the respondent's de facto place of residence; in the case of a legal person, the name, registration number and registered office thereof; In addition, the respondent may also indicate another address for correspondence with the court;
the case number and subject matter of the claim;
whether they admit the claim, in whole or in part;
their objections against the claim, the grounds on which they are based, and the legislation on which they are based;
evidence supporting their objections against the claim;
requests for disclosure of evidence;
whether the respondent wishes to recover the court costs;
whether the respondent wishes to recover expenses relating to the conduct of the case, indicating the amount and enclosing documents substantiating the amount;
whether the respondent requests that the case be heard in court;
any other circumstances that the respondent considers as important for the hearing of the case;
any other requests;
a list of documents enclosed with the observations;
the time and place at which the observations were drawn up.
A respondent is entitled to bring a counterclaim, within 30 days of the day when the application is sent to the respondent, 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 heard in accordance with the procedure for simplified procedure claims if the counterclaim is itself a simplified procedure claim, i.e. is within the permissible ceiling and is formulated accordingly.
If the sum sought in the counterclaim is above the ceiling for a simplified procedure claim, 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 consider that a hearing is necessary, a simplified procedure case is examined in written procedure, and the parties are notified in good time of the date when the summary judgment will be available in the online system. The date on which a summary judgment is available on the online system is deemed to be the date when the judgment is drawn up. The court will consider the case at a hearing in accordance with the ordinary court procedures if a reasoned request by a party has been received and the court considers it necessary to hear the case at a hearing. The court may also hear a matter at a hearing on its own initiative. 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 international law binding on Latvia or European Union law, including Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

1.7 Content of judgment

In simplified procedure cases, the court draws up a summary judgment. A summary judgment is drawn up in accordance with the general requirements for the contents of a judgment (Article 193 of the Law on civil procedure), with the exception of the descriptive part, which indicates only the subject-matter of the claim, the laws and regulations relied on by the party, and the claim, and grounds of the judgment, which reflects only the legislation that the court has relied on.

The court draws up a full judgment (in conformity with the general requirements for the contents of a judgment) in a simplified procedure case if a party submits a written request for the judgment to be drawn up. A request must be submitted to the court within 10 days of the date of announcement of the summary judgment (the date on which the summary judgment is available in the online system). The court may also draw up a full judgment upon its own initiative. A full judgment shall be drawn up by the court within 20 days of expiry of the term for lodging a request for a judgment to be drawn up. The date on which a full judgment is available in the online system is deemed to be the date on which it is drawn up.

1.8 Reimbursement of costs

Simplified procedure cases are subject to the general rules on the payment of court costs.

When a judgment is given, the court will order the unsuccessful party to pay all of the successful party's court costs (the State fee and costs of the proceedings). If the application is upheld only in part, the respondent will be ordered to pay the applicant's court costs in proportion to the claims upheld, and the applicant will have to pay the respondent's court costs in proportion to the claims dismissed. If an applicant discontinues an action, he or she has to reimburse the court costs incurred by the respondent. In that case the respondent does not reimburse the court costs paid by the applicant. If, however, an applicant discontinues the action because the respondent voluntarily satisfies the claim after the application is submitted, the court may order the respondent to pay the applicant's court costs upon request by the applicant.

Likewise, if the court decides not to hear an action, the court will, upon request by the respondent, order the applicant to reimburse the court costs paid by the respondent.

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

A security of EUR 70 is payable for an ancillary claim. If the court annuls or amends a contested judgment in whole or in part, the security is refunded. If an appeal is rejected, the security is not refunded.

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 simplified procedure case has been heard in written procedure, the time limit for appealing the judgment (20 days) 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 has been 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 defective, and how this has affected the adjudication of the case.

A judge of the court of first instance will decide whether the appeal should proceed further and set a deadline by which the appellant must rectify any deficiencies, if the appeal does not comply with the requirements of the Law on civil procedure, or, in cases specified by law, a translation of the appeal and the documents attached thereto has not been enclosed with the appeal. If the deficiencies are rectified within the deadline, 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 appellant.

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 (the State fee payable for an appeal at a rate calculated according to the amount of the dispute in the court of first instance) has not been paid, will not be accepted and will be returned to the appellant. A decision refusing to accept an appeal cannot be challenged.

Having satisfied themselves that the procedure for the submission of appeals has been complied with, a judge, or in certain cases a panel of three judges, of the appeal court takes a decision to initiate the appeal proceedings within 30 days of receipt of the appeal.

If 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 time limit for the submission of written observations.

If the judge appointed to take the decision on an appeal considers that appeal proceedings should be refused, the question on the initiation of proceedings is decided by a panel of three judges.

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 drawn up as 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.

After the notification of the initiation of the appeal proceedings has been sent, a party has 20 days in which to submit a cross appeal. If a cross appeal is received, the court will send it to the other parties without delay.

Simplified procedure appeals are heard in written procedure; the parties are notified in good time regarding the date when the judgment will be available online, informed of the composition of the court and of their right to object to a judge. A judgment is deemed be drawn up on the day when the judgment is available in the online system. If the court considers it necessary, a simplified procedure case may be heard at a court hearing.

A judgment of an appeal court cannot be appealed against in cassation, and takes effect when it is pronounced or, if the case is heard in written procedure, the date on which it is drawn up.

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1 Existence of a specific small claims procedure

Chapter XXIV of Part IV of the Code of Civil Procedure (Civilinio proceso kodeksas) of the Republic of Lithuania sets out the national small claims procedure. European small claims are dealt with pursuant to Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, and European small claims cases are heard under the general rules for dispute resolution proceedings, with the exceptions laid down in the Law of the Republic of Lithuania implementing European Union and international legislation governing civil proceedings (Civilinį procesą reglamentuojančių Europos Sąjungos ir tarptautinės teisės aktų įgyvendinimo įstatymas).

1.1 Scope of procedure, threshold

The national small claims procedure and the European Small Claims Procedure is applicable to monetary claims not exceeding EUR 2 000.

The European Small Claims Procedure is applicable to civil claims not exceeding EUR 2 000. The procedure does not apply to cases concerning: the status or legal capacity of natural persons; rights in property arising out of a matrimonial relationship, maintenance obligations, wills and succession; bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, social insurance, arbitrage, employment law, tenancies of immovable property, with the exception of actions on monetary claims, and violations of privacy and of rights relating to personality, including defamation.

1.2 Application of procedure

The procedure has been applicable since 1 January 2009. European small claims cases are heard by district courts under the rules of territorial jurisdiction laid down in the Code of Civil Procedure of the Republic of Lithuania, i.e. by the district courts of towns or districts.

In the cases specified in Articles 4(3) and 5(7) of Regulation (EC) No 861/2007, the court must inform the applicant/defendant that he/she is entitled to file a claim/counterclaim not later than within 14 days of receipt of the court's notice, in accordance with the requirements set out in the Code of Civil Procedure of the Republic of Lithuania. Where the applicant/defendant does not file a properly executed claim/counterclaim with the court within the time limit set in paragraph 1 of this article, the application is deemed not to have been filed and is returned to the applicant/defendant by a court order. A separate appeal may be lodged against such an order.

1.3 Forms

The forms are provided by the courts and on the electronic services portal of the Lithuanian courts: https://e.teismas.lt/lt/public/home/.

1.4 Assistance

The presence of a legal representative/lawyer is not required. The courts provide assistance in the completion of forms, but do not advise on the merits of a claim. Article 11(1) of Regulation (EC) No 861/2007 sets out the practical assistance and information that is provided to the parties to proceedings by bodies that provide primary State-guaranteed legal aid.

1.5 Rules concerning the taking of evidence

Collection of evidence is governed by Chapter XIII of Part II of the Code of Civil Procedure.

1.6 Written procedure

Under the national small claims procedure, the court hearing a case may itself decide on the form and procedure for hearing the case. An oral hearing may be held where at least one party has submitted such a request. Under a written procedure, the persons involved in the case are not summoned and do not attend the court hearing. The persons involved in the case are notified of a written procedure in accordance with Article 133(3) of the Code of Civil Procedure. If a case is heard on the merits under a written procedure, the date, time and place of the court hearing as well as the composition of the court are announced on a special website (http://pranesimai.teismai.lt/teismu_pranesimai/) at least seven days before the date of the hearing, except in the cases specified by the Code, where the parties are notified under a different procedure. The said information is also provided by the court office.

1.7 Content of judgment

Under the national small claims procedure, the court's decision must have introductory and operative parts and make a brief statement of reasons.

1.8 Reimbursement of costs

A court fee (žyminis mokestis) in the amount set in Article 80(1)(6) of the Code of Civil Procedure of the Republic of Lithuania is charged on small claims. It amounts to 1/4 of the fee payable for the claim, but not less than EUR 10.

1.9 Possibility to appeal

Article 29 of the Law provides that the decisions of Lithuanian courts adopted under the European small claims procedure are subject to appeal. The appeal procedure is governed by Articles 301–333 of the Lithuanian Code of Civil Procedure. In accordance with Article 307(1) of the Code, where grounds for appeal exist, an appeal may be filed within 30 days of the date of the court decision.

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Small claims - Luxembourg

1 Existence of a specific small claims procedure

In addition to the European small claims procedure set out in Regulation (EC) No 861/2007 of 11 July 2007, there is a simplified procedure for the recovery of claims up to a threshold of €15 000 (excluding interest and costs) under Luxembourg law, known as the 'order for payment' (*ordonnance de paiement*).

1.1 Scope of procedure, threshold

The order for payment procedure may be used to recover any pecuniary debt of up to €15 000, provided that the debtor is domiciled in Luxembourg.

1.2 Application of procedure

It is up to claimants to decide whether or not to use the order for payment procedure to recover debts, as they can also apply for a summons (*citation*) to appear before a justice of the peace.

One of the differences between the order for payment procedure before a justice of the peace and the application to the District Court for a provisional payment order is that the proceedings before the justice of the peace may culminate in a full judgment (*jugement*), whereas proceedings before a District Court can lead only to a court order (*ordonnance*).

1.3 Forms

An application for an order for payment may be made orally or in writing to the registry of a justice of the peace court.

To be valid, the claim must contain the names, first names, occupations and domicile or residence of the claimant and defendant, a statement of grounds and the amount claimed and an application for a conditional order for payment.

The creditor must attach or lodge any documents that constitute evidence of the existence of the debt and its amount and establish that it is well founded.

A comparison of the texts shows that the statement of grounds required for claims that are to be heard by the justice of the peace is less extensive, as it is sufficient in that case to specify the amount of the debt and its origin.

1.4 Assistance

The legislation imposes no obligation on bailiffs or the courts to assist the parties.

1.5 Rules concerning the taking of evidence

The ordinary rules of evidence apply. See 'Taking of evidence - Luxembourg'

1.6 Written procedure

If the debtor files an objection, and the creditor wishes to continue proceedings, there must be a public hearing of the claim.

1.7 Content of judgment

Judgments given in order for payment cases are subject to the same principles and rules as judgments given in ordinary proceedings.

1.8 Reimbursement of costs

In Luxembourg law, the losing side is normally ordered to pay costs, although the court may decide by special and reasoned decision whether all or a proportion of the costs should be awarded against another party. If the party winning the case has incurred costs for the proceedings it can require the other party to reimburse them.

Contrary to the rule which exists in other countries, lawyers' costs are not systematically reimbursed. Under Luxembourg law, the 'costs' referred to in Article 238 of the New Code of Civil Procedure include the costs of bailiffs, experts, any expenses paid to witnesses, translations, etc., but not lawyers' costs.

The judge may award the successful party a lump sum intended to cover costs incurred as a result of an action, including lawyers' costs. This is particularly the case when it would be inequitable to leave one party to bear expenses which it has incurred and which are not included as costs; the judge can order the other party to make such payment as the judge sees fit.

The decision to award a payment, together with the amount of the award, is at the judge's discretion.

1.9 Possibility to appeal

The ordinary rules apply in order for payment cases. Judgments handed down by a justice of the peace can be subject to an appeal if the amount at issue exceeds €2 000.

Related links

LEGILUX

https://justice.public.lu/fr.html

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Small claims - Hungary

1 Existence of a specific small claims procedure

Other than the procedure specified in Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (and Sections 598 to 602 of Act CXXX of 2016 on the Code of Civil Procedure, which deal with any issues not settled by this Regulation), the Hungarian law in force has not had a special procedure applicable to small claims since 1 January 2018. Small claims had been governed by Act III of 1952 on the Code of Civil Procedure; however, this Act was repealed by Act CXXX of 2016 on the Code of Civil Procedure, with effect from 1 January 2018. This means that there have been no specific rules applicable to small claims in the Hungarian civil procedure since 1 January 2018. Consequently, the general rules apply to the enforcement of small claims. However, proceedings initiated before 1 January 2018 are dealt with in accordance with the previous Act III of 1952 on the Code of Civil Procedure. The following information is therefore only relevant for cases still pending that were initiated before 1 January 2018.

1.1 Scope of procedure, threshold

The small claims procedure is available in proceedings for the recovery of claims not exceeding HUF 1 million, which have become contentious following an opposition to an order for payment, or which follow an order for payment procedure, i.e. when

a) an application for the issue of a payment order is rejected by the notary public *ex officio* and subsequently the claimant brings an action before the court in order to enforce the claim;

b) the order for payment procedure is terminated by the notary public by decree and subsequently the claimant brings an action before the court in order to enforce the claim.

1.2 Application of procedure

The procedure is applied by district courts.

1.3 Forms

No form is provided for the submission of applications instituting the proceedings, but for order for payment procedures preceding such applications – falling within the competence of civil law notaries – a form is available on the website of the Hungarian Chamber of Civil Law Notaries and in notaries' offices.

1.4 Assistance

Assistance is available. To facilitate the enforcement of their rights, natural persons whose income and financial standing do not allow them to bear the cost of the proceedings will, upon their request, be fully or partially exempted from the payment of these costs. Pursuant to the Act on Duties, the parties may also be entitled to concessions with respect to court charges (exemption from the charges or the right to defer them), and persons in need are also entitled to employ a legal assistant or an advocate under the provisions of the Act on Legal Aid if required to effectively enforce their rights.

1.5 Rules concerning the taking of evidence

In procedures which have become contentious following an opposition to an order for payment, the court notifies the defendant of the facts and evidence presented by the claimant no later than in the writ of summons for the hearing. The party may submit evidence on the first day of the hearing at the latest. As an exemption to this rule, the party may provide evidence any time during the proceedings if the opposing party consents or if the party invokes facts or evidence, final court decisions or other administrative rulings in its presentation of evidence that, for reasons not attributable to the party, have become known to him or her after the standard deadline set for the provision of evidence, or of which he or she was informed after such deadline for reasons not attributable to him or her, and if the party provides sufficient proof to support that claim.

If changes are made to the application or a counterclaim is submitted, the party may provide relevant evidence when the changes are made (the counterclaim is submitted), whereas in the case of oppositions to claims of set-off, evidence relating to the offset claim may be provided simultaneously with the submission of the statement of opposition. The court must ignore any evidence put forward contrary to these provisions. The general rules of evidence apply in all other respects.

1.6 Written procedure

The court also conducts a hearing.

1.7 Content of judgment

The content of judgments is governed by the generally applicable rules, with the proviso that the parties must be provided with information after the operative part of the judgment about the elements that must be included in the appeal and the legal consequences of omitting those elements.

1.8 Reimbursement of costs

As a general rule, the 'loser pays' principle applies.

1.9 Possibility to appeal

The possibility of an appeal is limited in a number of respects, and it is therefore of the utmost importance that only a reference to an infringement of the rules of the first instance procedure or a wrongful application of the law serving as a basis for the assessment of the merits of the case may be invoked. The general rules apply to filing appeals and to the time limit set for appeals, i.e. they must be lodged at the court bringing a resolution at first instance within 15 days of service of the judgment and they will be judged by the competent regional court.

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Small claims - Malta

1 Existence of a specific small claims procedure

The specific small claims procedure is regulated by Chapter 380 of the Laws of Malta (Small Claims Tribunal Act) as well as by Subsidiary Legislation 380.01, 380.02 and 380.03.

1.1 Scope of procedure, threshold

This tribunal [Tribunal għal Talbiet Żgħar] only has jurisdiction to hear and decide money claims not exceeding the amount of €5,000.

1.2 Application of procedure

Proceedings begin when a claiming party fills in the necessary form, files his claim in the Tribunal's Registry, pays the fee and requests the Tribunal to serve the defendant with his claim. The respondent then has eighteen days from the service of the notice of claim to file his reply. A counter-claim is also permitted. If the defendant feels that another person should pay for the plaintiff's claim, he should indicate that person. The Court Registrar shall then notify the parties of the date and time of the hearing. The adjudicator regulates proceedings in the Tribunal as deemed fit in accordance with the rules of natural justice. The adjudicator shall ensure that the case shall, as far as possible, be heard and decided swiftly, on the same day of the hearing and that the hearing shall not take longer than one sitting. He shall gather information in any manner he sees fit and shall not be bound by the rules of best evidence or the rules relative to hearsay evidence if he is satisfied that the evidence before him is sufficiently reliable for him to reach a conclusion on the case before him. He shall refrain, as far as possible, from appointing referees to give expert evidence. He shall have the same power as a magistrate sitting in a Court of Magistrates in its civil jurisdiction and in particular shall have power to summon witnesses and to administer an oath to witnesses.

1.3 Forms

The party making the claim shall fill in a claims form contained in the First Schedule to Subsidiary Legislation 380.01 (Small Claims Tribunal Rules). The respondent shall reply by also completing a form, which is also to be found in the first Schedule of the abovementioned Subsidiary Legislation.

1.4 Assistance

Parties may be assisted by any person: this does not necessarily have to be a lawyer or a legal procurator.

1.5 Rules concerning the taking of evidence

Parties may give evidence verbally, in the form of documents, or both together. A witness may be summoned — no later than three days before the date when he is required to testify — to appear before the Tribunal on a specific date and at a specific time to give evidence or produce documentation. If a duly summoned witness fails to appear during the sitting, the Tribunal may order that witness to be brought, under arrest, to a sitting to be held on another date.

1.6 Written procedure

The claim and the reply to it are made in writing. Evidence can be documentary. However, appearance before the Tribunal is mandatory on the dates fixed by it.

1.7 Content of judgment

The adjudicator shall list in his decision the main details on which he bases his decision. In the latter, he shall also give his decision on costs.

1.8 Reimbursement of costs

In any award the adjudicator shall determine the costs that any of the parties is to bear. Unless special circumstances otherwise warrant, the losing party is ordered to pay the costs of the party in whose favour the decision is awarded. Costs shall be limited to actual expenses directly made in connection with the case by the party in whose favour the payment of costs is awarded. In the case of a frivolous and vexatious claim, the Tribunal may order the claimant to pay the defendant a penalty not less than €250 and not exceeding €1,250, and this penalty is due as a civil debt.

1.9 Possibility to appeal

Any appeal against a decision of the Tribunal must be filed in the Courts' Registry, by application to the Court of Appeal in its inferior jurisdiction, within twenty days from the date of the decision delivered by the Adjudicator.

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Small claims - Netherlands

1 Existence of a specific small claims procedure

The usual procedure for small claims is the summons procedure at the sub-district sector of the court (*sector kanton van de rechtbank*). This is an ordinary summons procedure, with procedural simplifications. If the case is heard in the sub-district sector of the court you are not required to engage a lawyer and can instead choose to represent yourself.

In cross-border cases within the EU, the European small claims procedure may also be used. You can use the European small claims procedure if you are owed money by:

another company;

an organisation;

a client.
In Dutch law, there is an Act implementing the European Small Claims Procedure Regulation (Act of 29 May 2009 implementing Regulation (EC) No 861 /2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure).

1.1 Scope of procedure, threshold

The sub-district court is seised of:
cases relating to claims for a maximum of €25,000;
cases relating to claims of undetermined value, if the value is unlikely to exceed €25,000.
In addition, the sub-district court rules in cases involving employment law, leases, consumer sales and consumer credit cases, appeals against traffic fines and minor offences. It also deals with administration, guardianship, curatorship and the renunciation or acceptance of an inheritance. Click here for more information about the summons procedure at the subdistrict court.
Cases concerning European small claims are also handled by the sub-district court. The maximum value for the European small claims procedure is set by Regulation (EC) No 861/2007 at €5,000.

1.2 Application of procedure

There is no special sub-district court procedure. In principle, the rules for the summons procedure apply for both the district court and the sub-district sector. An important difference is that in cases before the sub-district court the parties have the right to argue their own case, whereas in other cases (before the district court), the parties must be represented by a lawyer. See point 1.4 below. In addition, in the sub-district sector the cases are handled by a singlejudge formation, i.e. by a judge sitting alone.
The rules on the petition procedure are applicable to European small claims.

1.3 Forms

The proceedings before the sub-district court are usually initiated by a summons. The most important statements in the summons are the statement of claim (the claim itself) and the reasons for it (facts and rights on which the statement of claim is based).
A few particularities of the sub-district court proceedings are:
the defendant is summoned before district court A, but to appear before the subdistrict court judge sitting in the main venue of court A or in a specified subdistrict venue of court A.
if the claimant is represented by an authorised representative for the proceedings, the name and address of the authorised representative must be stated in the summons.
A claim under the European small claims procedure is brought using form A. The application must be made to the court with jurisdiction.

1.4 Assistance

In cases before the sub-district court, the parties can argue their own case. This means that there is no compulsory legal representation by a lawyer. Assistance provided by an authorised representative, who does not need to be a lawyer, is also permitted. For the reimbursement of costs of legal assistance for a lawyer, see also point 1.8 below.
In the European procedure, likewise, the parties are not required to be represented by a lawyer or other legal advisor.

1.5 Rules concerning the taking of evidence

The usual rules of the law on evidence are applicable. According to Dutch law on evidence, the judge is in principle free to assess the evidence adduced. Article 9 of the aforementioned Regulation (EC) No 861/2007 regulates the taking of evidence in the European procedure.

1.6 Written procedure

There are national rules of procedure for the civil role of the sub-district sectors (*Landelijk Procesreglement voor rolzaken kanton*). Written documents may be lodged with the registry of the district court before the cause list date, but also at the hearing. Statements and reactions may be submitted orally in the proceedings before the sub-district court. The European procedure is a written procedure, although a hearing can be held if the judge considers it necessary or if a party so requests.

1.7 Content of judgment

The judgment must contain:
the names and addresses of the parties and of their authorised representatives or lawyers;
the views expressed by the parties;
the conduct of the procedure;
the conclusion of the summons and the statements of the parties;
the reasons for the decision, stating the facts and considerations of the judge;
the judge's final decision;
the name of the judge;
the apportionment of costs;
the date of the judgment.
The judgment is signed by the judge.

1.8 Reimbursement of costs

If a case is brought before the sub-district court, the following costs may be incurred: court registration fee, apportionment of the costs awarded by the court and costs for legal assistance.
The court registration fee is payable when the court is seised of the case. The amount depends on the nature of the case. In practice, your lawyer will advance this amount and charge it to you subsequently. The judge may order the unsuccessful party to pay the costs of the other party. If neither of the parties has been totally successful, each pays his or her own costs. The costs awarded by the court may include costs for legal assistance, but also the costs of witnesses, experts, travel and subsistence expenses, costs of extracts and other out-of-court expenses.
Under Dutch legislation, the less well-off can sometimes obtain a contribution to the costs of legal assistance. Subsidised legal assistance is not possible for all cases before the sub-district courts. If subsidised legal assistance is possible, the litigant also pays an own contribution to the costs of legal assistance, depending on his or her financial situation. An application for a contribution towards the costs of legal assistance is made by the lawyer to the Legal Aid Board (*Raad voor rechtsbijstand*). This is regulated in the Legal Aid Act (*Wet op de Rechtsbijstand*). Chapter III A of this Act sets out the rules regarding the granting of legal aid in cross-border litigation within the EU.

1.9 Possibility to appeal

An appeal against judgments of the sub-district sector of the court can be lodged with the court of appeal. An appeal is possible only if the claim exceeds €1,750. An appeal may be made within 3 months of the date of delivery of the judgment. It is possible to appeal against a decision by the sub-district court in the European small claims procedure.

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Small claims - Austria

1 Existence of a specific small claims procedure

1.1 Scope of procedure, threshold

There is no small claims procedure as such in Austrian law. However, the Austrian Code of Civil Procedure (ZPO) provides for a simplified procedure or specific procedural rules in certain matters brought before the District Courts.
Some of these specific procedural rules apply only to small claims of up to EUR 1,000 (see point 1.5) or EUR 2,700 (see point 1.9).

1.2 Application of procedure

The specific rules for small claims under Austrian procedural law are mandatory and the parties cannot opt out of them.
Thus neither the court nor the parties can transfer the claim to ‘ordinary’ proceedings.

1.3 Forms

As there is no small claims procedure as such in Austria, there are no particular forms for such claims.

1.4 Assistance

Legal representation is not compulsory in Austria for amounts in dispute of up to EUR 5,000. Judges must provide assistance to parties with no legal representation, i.e. they must advise the parties of their procedural rights and obligations and of the legal consequences of their acts and omissions. Parties with no legal representation are also able to register their claims orally before the District Court with jurisdiction or the District Court in their place of residence. If a written submission by a party with no legal representation is inadequate, the judge must give that party an appropriate explanation and guidance. The judge’s impartiality must not be compromised by this.

1.5 Rules concerning the taking of evidence

In the case of claims of EUR 1,000 or less, the court can disregard the evidence offered by the party if full clarification of all the relevant circumstances would be disproportionately difficult. Here too, however, the judge must make a non-arbitrary decision in good faith, based on the outcome of the proceedings as a whole. This decision may be reviewed at successive stages of appeal.

1.6 Written procedure

Austrian law does not allow proceedings to be conducted entirely in writing. For example, in civil procedure law, by virtue of the principle of immediacy (*sachlicher Unmittelbarkeitsgrundsatz*: direct evidence of the facts must be given preference over merely indirect sources of evidence), written witness statements submitted as documentary evidence are not admissible.

1.7 Content of judgment

Under the Austrian Code of Civil Procedure, if a judgment is pronounced orally, less stringent requirements apply to the written copy of the judgment, irrespective of the amount in dispute. If a judgment was pronounced orally in the presence of both parties and neither party appealed against it in time, the court can issue an ‘abbreviated copy of the judgment’ confined to the main grounds for the decision.

1.8 Reimbursement of costs

Under Austrian law, costs in civil cases are generally reimbursed in proportion to the degree of success. Both court costs and legal fees are linked directly to the amount in dispute. As a rule, therefore, a smaller amount in dispute will result in lower court costs and legal fees. As costs are laid down in acts and regulations in the form of tariffs, costs can be kept down for small claims. However, there are no special cost rules for this type of claim.

1.9 Possibility to appeal

Austrian law only allows limited rights of appeal in small claims proceedings. Appeals in proceedings on claims of up to EUR 2,700 at first instance are only allowed on grounds of incorrect appraisal of the legal merits of the case or on grounds of invalidity (extremely serious procedural errors). Other serious procedural errors cannot be challenged. Neither can materially inaccurate findings of fact made by the court of first instance (based on, for example, incorrect assessment of evidence). Otherwise, the rules for the ‘ordinary’ procedure apply.

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Small claims - Poland

1 Existence of a specific small claims procedure

A simplified procedure exists in Polish law. It is governed by Articles 5051 to 50514 of the Code of Civil Procedure.
The simplified procedure involves streamlining and optimising evidentiary and appeal proceedings by speeding up and simplifying court procedures and by introducing more stringent formal requirements for the parties and obliging them to act in a disciplined manner when taking action.
The Polish Code of Civil Procedure incorporates the European Small Claims Procedure. The Procedure was established by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure with a view to streamlining and simplifying civil and commercial proceedings. The Regulation is applied in all EU Member States except Denmark. It was transposed into Polish law by Articles 50521 to 505 27a of the Code of Civil Procedure.

1.1 Scope of procedure, threshold

The simplified procedure is used in the following cases that fall within the jurisdiction of the district courts (sądy rejonowe):
claims under contracts, if the value of the claim does not exceed PLN 20 000, and, for claims under warranties or quality guarantees or claims resulting from the incompatibility of consumer goods with a consumer sales contract, if the value of the subject of the contract does not exceed that amount;
claims for payment of rent for dwellings and fees payable by tenants as well as fees for the use of a dwelling in a housing cooperative, irrespective of the value of the claim.
Under the case-law of the Supreme Court (Sąd Najwyższy), claims for non-performance or inadequate performance of an obligation should be considered under the simplified procedure if the value of the claim does not exceed PLN 20 000. If the claimant is pursuing an amount of less than PLN 20 000 that constitutes the remainder of a claim which has already been satisfied in an amount of more than PLN 20 000, this claim will also be considered under the simplified procedure. The phrase ‘under contracts’ means that claims resulting from unlawful acts, unjust enrichment and the existence of ownership of property, co-ownership or the community of rights or the existence of other property rights whose acquisition or exercise gives rise to a payment obligation

may not be heard under the simplified procedure. Claims resulting from legal acts other than contracts may not be heard under this procedure either: unilateral legal acts, agency without authorisation, *legitima portio* and obligations arising from an administrative decision or directly from provisions of law.
The simplified procedure may be applied in cases involving natural persons and legal persons or businesses, employees and employers. As such, application of the procedure is not limited by the type of entity. This means that staff-related or economic matters may be considered under the simplified procedure.
The European Small Claims Procedure falls within the jurisdiction of district courts and regional courts ('*sądy okręgowe*') and officers of justice in accordance with territorial jurisdiction as specified in the Code of Civil Procedure (Article 16 of the Code of Civil Procedure, read in conjunction with Articles 17 and 505 (22) thereof).
In accordance with the Directive referred to above, small claims are claims in civil and commercial matters (including consumer matters) and cases in which the value of the claim, excluding interest and expenses, does not exceed EUR 5 000 (at the time when the claim form is received by the court with jurisdiction).

1.2 Application of procedure

Under Article 5053, any one set of proceedings under the simplified procedure can concern only one claim. Several claims may be combined into one claim only if they result from the same contract or contracts of the same type. If several claims are unlawfully combined into one claim, the presiding judge will order the claim to be returned under Article 1301 of the Code of Civil Procedure following unsuccessful action to rectify this formal irregularity. If the claimant is pursuing part of a claim, the case will be considered under the simplified procedure if that procedure would be appropriate for the entire claim arising from the facts invoked by the claimant. Claims cannot be changed under the simplified procedure. Counterclaims and set-offs are permitted if claims are eligible to be considered under the simplified procedure. Primary intervention, secondary intervention, third-party notices and party changes are not permitted.
Cases are considered under the simplified procedure irrespective of the wishes of the parties, which means that this procedure is obligatory.

1.3 Forms

Under the Code of Civil Procedure (Article 5052 read in conjunction with Article 125(2)), all pleadings, including claims, statements of defence, applications to set aside default judgments or pleadings containing evidence offered during the simplified procedure, should be submitted on official forms.
Official forms are available from municipal offices, court registry offices and on the website of the Ministry of Justice (http://bip.ms.gov.pl/pl/formularze).
Failure to use a required form constitutes a formal irregularity.
Under the general provisions of the Code of Civil Procedure (Article 130 thereof), if a pleading that should have been submitted on an official form has been submitted in another way or cannot be processed because other formal conditions have not been met, the presiding judge requests the party to rectify the irregularities within one week and sends the pleading to that party. A request to rectify irregularities should specify all the irregularities found in the pleading. If the party does not comply by the time the deadline expires or an irregular pleading is re-submitted, the presiding judge will order that the pleading be returned.
Under the European Small Claims Procedure, there are four standard forms, attached as annexes to the Regulation referred to above. These are: a claim form, a form for a request by a court or tribunal to complete or rectify a claim form, an answer form and a certificate concerning judgments handed down in the European Small Claims Procedure.

1.4 Assistance

The principle of concentration of evidence applies in the simplified procedure. The court will disregard assertions and allegations made by the parties and motions for evidence submitted by them after a claim, counterclaim or application to set aside a default judgment is lodged or after the first session designated for a hearing is concluded (preclusion system), unless the party demonstrates that they could not be, or need not have been, submitted earlier (judge's discretion).This is due to the speed of the simplified procedure. If the court concludes that it is impossible or very difficult to conclusively prove the amount of a claim, it may specify an appropriate amount in the judgment at its discretion, after considering all facts of the case. If the court concludes that the case is particularly complex or specific knowledge is required to resolve it, the case will be examined under the usual procedure. The court may summon witnesses and other persons in the manner it considers the most expedient to minimise the costs of the simplified procedure. In order to speed up the simplified procedure, expert opinions are not deemed admissible (Article 5056). In order to speed up the simplified procedure, expert opinions are not deemed admissible (Article 5056 of the Code of Civil Procedure).

1.5 Rules concerning the taking of evidence

The principle of concentration of evidence applies in the simplified procedure. The court will disregard assertions and allegations made by the parties and motions for evidence submitted by them after a claim, counterclaim or application to set aside a default judgment is lodged or after the first session designated for a hearing is concluded (preclusion system), unless the party demonstrates that they could not be, or need not have been, submitted earlier (judge's discretion).This is due to the speed of the simplified procedure. If the court concludes that it is impossible or very difficult to conclusively prove the amount of a claim, it may specify an appropriate amount in the judgment at its discretion, after considering all facts of the case. If the court concludes that the case is particularly complex or specific knowledge is required to resolve it, the case will be examined under the usual procedure. The court may summon witnesses and other persons in the manner it considers the most expedient to minimise the costs of the simplified procedure. In order to speed up the simplified procedure, expert opinions are not deemed admissible (Article 5056).

1.6 Written procedure

As a rule, the simplified procedure is a written procedure. Most applications by the parties should be submitted on special official forms. However, applications may also be lodged verbally under the simplified procedure. A party may apply for the grounds of a judgment to be set out directly after the judgment is handed down (Article 5058). A party present at the session during which the judgment is handed down may waive its right of appeal by way of a statement lodged after the judgment is handed down. If all eligible parties waive the right of appeal, the judgment becomes final and binding.
The European Small Claims Procedure is a written procedure (Article 125(2), read in conjunction with Article 505(21) of the Code of Civil Procedure).

1.7 Content of judgment

If the court concludes that the case is particularly complex or specific knowledge is required to resolve it, then, in accordance with Article 5057 of the Code of Civil Procedure, the case may be examined by that court under the usual procedure. In that case, no supplementary fee is charged. The case is examined by the court which first heard it, under an appropriate procedure other than the simplified procedure. A court decision under Article 5057 should be handed down during a hearing as a decision that cannot be appealed.

1.8 Reimbursement of costs

Claimants are charged a fee for lodging a claim under the simplified procedure, as is the case under the usual procedure. However, fees for claims under the simplified procedure are governed by different rules, namely Article 28 of the Court Fees (Civil Cases) Act of 28 July 2005. The Article provides for a flat-rate fee, depending on the amount of the claim or the subject of the contract. The following fees are charged for the following amounts:
up to PLN 2 000: a fee of PLN 30;
between PLN 2 000 and PLN 5 000: a fee of PLN 100;

between PLN 5 000 and PLN 7 500: a fee of PLN 250;
over PLN 7 500: a fee of PLN 300.
Under the simplified procedure, costs are settled between the parties in accordance with the general rules set out in Articles 98 to 110 of the Code of Civil Procedure. Under Article 98 of the Code of Civil Procedure, the unsuccessful party is required to reimburse the costs associated with the pursuit of rights and defence to the other party on request. The court awards costs in each judgment concluding a case in a particular instance.

1.9 Possibility to appeal

Judgments handed down under the Regulation may be appealed in the court of appeal. If the judgment was handed down by the district court, the appeal is lodged via that court with the regional court, and if the judgment was handed down by the regional court, the appeal is lodged via that court with the court of appeal ('*sąd apelacyjny*') (Articles 367 and 369 of the Code of Civil Procedure, read in conjunction with Articles 505(26) and 505(27) thereof).
If the conditions set out in Article 7(3) of the Regulation are fulfilled, the court hands down a default judgment. The defendant may appeal against a default judgment to the court which handed down the judgment. If the outcome of a case is unfavourable, the claimant may appeal under the general rules (Articles 339(1), 342 and 344(1) of the Code of Civil Procedure).

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Small claims - Portugal

1 Existence of a specific small claims procedure

There are two specific procedures in national law for small claims (provided for in Decree-Law No 269/98 of 1 September 1998):
a special action for compliance with financial obligations arising from a contract, consisting of a fast and simplified declaration procedure (Articles 1 to 5 of the Procedural Rules (*Regime dos Procedimentos*), annexed to Decree-Law No 269/98);
an order for payment, which is a measure to attribute the power of an enforcement order to a claim relating to non-compliance with debts involving small sums (Articles 7 to 22 of the Procedural Rules, annexed to Decree-Law No 269/98).

1.1 Scope of procedure, threshold

Both of the abovementioned special procedures apply when the following requirements are met:
a financial obligation is involved (an obligation to settle in cash)
this obligation originated in a contract
the sum does not exceed €15 000.

1.2 Application of procedure

The complainant can choose from the procedures set out in the reply to question 1.

1.3 Forms

In the special action for compliance with financial obligations arising from a contract, the application and defence do not have to be presented in procedural documents, in other words, the pleadings do not need to be numbered by article. When submitted by legal representation, they must be sent electronically using specific forms provided for the purpose by the computer support system for the courts, unless the representative invokes legitimate grounds for not using this system. When submitted by the parties themselves, the special form is not required and they can be delivered to the court by registered post or fax.
An order for payment must be submitted on a specific form provided at Order for Payment Procedure - Citius Portal (mj.pt). The use of this form is compulsory, regardless of whether it is submitted by the party directly or through a representative.
When submitted by a legal representative, the order for payment form must be sent electronically through the court computer support system (unless the representative invokes legitimate grounds for not using this system). When submitted directly by the party, the order for payment form can be handed in on paper.

1.4 Assistance

The legal aid scheme applies to both procedures (e.g. appointment of legal representative, payment of legal representative's fees, payment of judicial fees and other related charges) (Law on Access to Courts (*Lei de acesso aos tribunais*), Law No 34/2004 of 29 July 2004).
For more detailed information on this topic, please refer to the factsheet on Legal Aid

1.5 Rules concerning the taking of evidence

In the special action for compliance with financial obligations arising from a contract, presentation of evidence is as follows:
evidence is offered during the hearing;
if the claim does not exceed €5 000, each party may present up to three witnesses. In all other cases, up to five witnesses may be presented. In either of the above cases, a party may not present more than three witnesses for each of the facts in question;
in claims not exceeding €5 000 where the parties do not have legal representation or the legal representative does not appear, witnesses will be questioned by the judge;
expert evidence is always provided by a single expert;
the judge may require further evidence which is deemed to be indispensable to a proper decision. In such cases, the hearing may be suspended at a time deemed convenient by the judge and a date will be set for continuation. The judgment must be concluded within 30 days.
Orders for payment:
if a notified defendant does not challenge an order for payment, evidence does not need to be presented and the competent court clerk will append the following to the order for payment – *'This document has legal force'*;
if an order for payment is challenged, it will follow the form of a special action for compliance with obligations arising from a contract and the associated procedure for the presentation of evidence will apply;
if it proves impossible to notify the defendant, the order for payment is handled as an ordinary case if the claimant has expressed this wish; otherwise, the clerk will return the order for payment to the claimant.

1.6 Written procedure

If a defendant has been notified and does not challenge an order for payment, the entire procedure is in writing.
In the special action for compliance with financial obligations arising from a contract, when witnesses have to present evidence, they may do so in writing if their knowledge of the facts was acquired as a result of performing their duties.
In such cases, testimony is in writing, dated and signed by the witness, with indication of the action it refers to, the facts as they are known and the reasons why the said witness has such knowledge.

1.7 Content of judgment

In a special action for compliance with financial obligations arising from a contract where there is a hearing, the judgment is given verbally and dictated for transcription, with grounds being provided in a succinct manner.

When an order for payment is upheld, there is no decision as such, merely the appending of the enforcement order by the court clerk.

1.8 Reimbursement of costs

The legal costs of the successful party are paid by the losing party, on a sliding scale based on the burden of loss. As such, the successful party could obtain total or partial reimbursement of the following costs: court fees already paid; costs incurred by the party in the production of evidence when it was not this party which requested such evidence or no use is made of such evidence; remuneration paid to the enforcement officer and expenditure incurred by the said enforcement officer (e.g. when summons is served on the defendant by an enforcement officer); lawyer's fees and expenditure incurred by the said lawyer.

The sums to be reimbursed must be indicated in an explanatory note. This note must be sent by the party entitled to the reimbursement to the court, the losing party and the enforcement officer, when applicable, within five days after the decision becomes final.

The explanatory note will contain the following information:

name of the party, case number and name of legal representative or enforcement officer;

indication of the sums paid by the party with regard to court fees;

indication of the sums paid by the party for expenditure previously incurred by the enforcement officer;

indication of the sums paid for legal representative or enforcement officer fees;

indication of the amount to be received.

As a general rule, the successful party's costs are paid directly by the losing party, unless otherwise provided for by law.

1.9 Possibility to appeal

Decisions handed down in a special action for compliance with financial obligations arising from a contract may be challenged through an appeal submitted to a court of appeal, provided that the sum in question exceeds €5 000 and the contested decision is unfavourable to the applicant with a value greater than €2 500.

This is the form of an ordinary appeal. Rules governing extraordinary appeals also exist and are provided for in national legislation.

With an order for payment, complaints must be submitted to the judge as regards a dismissal of an order for payment application and a dismissal of joining of enforcement order carried out by the court clerk.

Useful links

Decree-Law No 269/98 of 1 September 1998;

The Ministry of Justice's Citius portal;

Law on Access to Courts, Law No 34/2004 of 29 July 2004.

Warning

The EJN-Civil Contact Point, the courts or other entities and authorities are not bound by the information contained in this factsheet. The relevant legal texts in force must also be read in full as changes may have been made which have not yet been included in this factsheet.

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Small claims - Romania

1 Existence of a specific small claims procedure

Articles 1026-1033 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 1026 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 RON 10 000 on the date of referral to court.

In accordance with Article 8 of Law No 220/2022 of 15 July 2022 on the adaptation of certain measures which proved beneficial to the institutions in the field of justice during the state of emergency declared in order to prevent and combat the effects of the COVID-19 pandemic, Title X Small Claims Procedure of Book VI of Law No 134/2010, republished, shall apply where the value of the claim, free of interest, legal costs and other ancillary revenues, does not exceed RON 50 000 on the date of referral to court. In accordance with Article 20 of Law No 220/2022, the provisions of Article 8 thereof shall apply for a period of one year from 22 July 2022 (the date of entry into force of the Law).

1.2 Application of procedure

In the new Code of Civil Procedure, **the small claims procedure has an alternative** . 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 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: the claim form, the form amending and/or correcting the claim form, and the reply 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, items of evidence that are disproportionately expensive to administer compared to the value of the claim or counter-claim lodged are not admitted.

1.6 Written procedure

Article 1029 and ff. of the new Code of Civil Procedure state that a claimant initiates a small claims procedure by completing the claim form and submitting or sending 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 claim form. If the information provided by the claimant is either not sufficiently clear or

inadequate, or the claim 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 clearly unfounded or inadmissible. A claim is dismissed if it is clearly unfounded 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 a correctly-completed claim form, the court will send the reply form to the defendant, together with a copy of the claim form and the claimant's submissions. The defendant has to submit the completed reply form 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 reply form. The court will immediately serve the claimant copies of the defendant's response, the counter-claim, if applicable, and the defendant's submissions. If the defendant has filed a counter-claim, the claimant must submit the duly-completed reply form or reply by any other means within 30 days from the date when it was served. A counter-claim which cannot be dealt with under this procedure will be detached and settled under 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 counter-claim 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 1032 of the new Code of Civil Procedure states that the unsuccessful party is held liable to pay legal 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 1033 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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Small claims - Slovenia

1 Existence of a specific small claims procedure

Slovenian legislation has a specific small claims procedure, which is regulated by Chapter 30 of the Civil Procedure Act (Zakon o pravdnem postopku, ZPP).

1.1 Scope of procedure, threshold

Under the provisions of the ZPP, a small claims dispute is a dispute in which the amount claimed does not exceed EUR 2 000. In commercial disputes, a small claims dispute is a dispute in which the amount claimed does not exceed EUR 4 000. Small claims also covers disputes in which the claim is not pecuniary, with the claimant declaring in the action their willingness to accept a sum of money not exceeding EUR 2 000 (EUR 4 000 in commercial disputes) instead of satisfaction of the claim, and disputes in which the subject of the claim is the delivery of movable property, where the amount stated by the claimant in the action does not exceed EUR 2 000 (EUR 4 000 in commercial disputes). Small claims disputes do not include disputes concerning property, disputes relating to copyright, disputes relating to the protection or use of inventions and trademarks or the right to use a trading name, disputes relating to competition protection, or disputes relating to trespass.

1.2 Application of procedure

The application of the procedure is set out under point 1.1. A small claims procedure is conducted before a local court (okrajno sodišče), except in the case of a commercial dispute, which is adjudicated by a district court (okrožno sodišče).

1.3 Forms

Forms have been compiled only for small claims procedures initiated by a party based on an authentic document. A completed form may be submitted by electronic means to the following address: https://evlozisce.sodisce.si/esodstvo/index.html. This involves enforcement proceedings based on an authentic document which, following the submission of a duly substantiated complaint, continues as with an objection to an order for payment. Other than this, no forms have been prepared in advance for small claims procedures in order to assist parties to initiate a dispute.
For more detailed information on the possibilities regarding the submission of applications by electronic means, please see 'Automatic processing'.

1.4 Assistance

Parties may request legal aid, which shall be granted to them if they meet the conditions laid down in the Free Legal Aid Act (Zakon o brezplačni pravni pomoči, ZBPP).

1.5 Rules concerning the taking of evidence

In small claims procedures, the claimant is obliged to state all facts and adduce all evidence in the action, while the defendant is obliged to do so in their defence plea. Each party may then file one preparatory plea. Facts and evidence presented in written pleas at a later date are ignored. The deadline for the submission of a defence plea and preparatory pleas is eight days.

1.6 Written procedure

Small claims procedures are conducted on the basis of legal actions made in writing. The court may limit the time and scope of the evidence-taking procedure and conduct that procedure at its own discretion so as to strike a balance between providing for adequate protection of the rights of the parties and the objective of accelerating proceedings and keeping their costs down.

1.7 Content of judgment

A judgement in a small claims procedure is pronounced immediately after the end of the main hearing. A written judgement must include an introductory part, an operative part, a statement of grounds and legal instruction. The judge may produce a written judgement with a long or a shortened statement of grounds.

1.8 Reimbursement of costs

The costs of proceedings are decided in line with one or the other party's success in the case – i.e. the party that is unsuccessful in the case is obliged to reimburse the costs of the other party.

1.9 Possibility to appeal

Parties may appeal against a judgement of first instance or a decision ending a small claims dispute within eight days. A judgement and decision may only be contested on the grounds of a serious violation of the civil procedure provisions referred to in the second paragraph of Article 339 of the ZPP and of a violation of substantive law. In commercial small claims procedures, only the party that has announced that it intends to appeal may appeal against a judgement. There is no revision process in small claims disputes, and the reasons for ordering a procedure to be repeated are limited.

Related links

http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/preciscenaBesedilaZakonov

http://www.sodisce.si/

https://www.uradni-list.si/glasilo-uradni-list-rs

http://www.pisrs.si/Pis.web/

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Small claims - Slovakia

1 Existence of a specific small claims procedure

There is no specific procedure for small claims, which are governed by the general provisions on civil proceedings. No hearings are held for claims that are not in excess of EUR 2 000 and only require a simple assessment.

1.1 Scope of procedure, threshold

The procedure is governed by the general provisions on civil proceedings.

1.2 Application of procedure

The procedure is initiated by a motion, with the usual procedure for any kind of motion to initiate proceedings.

1.3 Forms

No specific forms are prescribed.

1.4 Assistance

The parties receive assistance in accordance with the general obligation for courts to advise the parties of their procedural rights and obligations at all times, and of the option of choosing a lawyer or contacting the Centre for Legal Aid (*Centrum právnej pomoci*).

https://www.centrumpravnejpomoci.sk

1.5 Rules concerning the taking of evidence

The procedure is governed by the general provisions on civil proceedings.

1.6 Written procedure

This is usually the same as for other civil proceedings.

1.7 Content of judgment

This is usually the same as for other civil proceedings.

1.8 Reimbursement of costs

This is usually the same as for other civil proceedings.

The court will award a party the legal costs depending on its success in the case. If the party was only partly successful, the court will award legal costs on a pro rata basis or will hold that neither party is entitled to reimbursement for the legal costs. If one party is procedurally responsible for the discontinuation of the proceedings, the court will award the legal costs to the other party. If one party is responsible for the costs of the proceedings that otherwise would not have been incurred, the court will award these costs to the other party. In exceptional circumstances, on grounds deserving special attention, the court will decide not to award the legal costs.

1.9 Possibility to appeal

A party has the option of appealing against a judgment in the usual way for civil proceedings. An appeal may be filed with the court whose decision is being contested within 15 days following service of the decision.

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Small claims - Finland

1 Existence of a specific small claims procedure

Finland's current legislation does not include procedural regulations that depend on the monetary amount pursued by the claimant. However, a suitable form of procedure may be ordered for a case on the basis of its nature. A case will only go through all the different stages of full legal proceedings if there are grounds for this and the interested parties so wish. A case may, for example, be resolved by a single judge, without an oral preparatory session, or by an entirely written procedure. Non-contentious civil cases also have their own specific procedure. For the processing of uncontested claims, see 'Order for payment procedures – Finland' and 'Automatic processing – Finland'.

1.1 Scope of procedure, threshold

As has been stated above, the monetary value of the claim is irrelevant. The form of procedure depends on the qualitative content of the case.

1.2 Application of procedure

Proceedings in civil cases are initiated by filing a written application for a summons with a district court (*käräjäoikeus*). Uncontested claims can also be filed using an electronic application (see 'Order for payment procedure – Finland').

1.3 Forms

There are no forms at a national level, apart from a form for giving notice of intent to appeal a district court's decision. Certain district courts have produced forms for specific kinds of correspondence; these are usually application forms or response forms. There is no obligation to use forms.

Uncontested claims can be filed using an electronic application form (see 'Order for payment procedure – Finland').

1.4 Assistance

Court registries provide procedural advice if necessary.

1.5 Rules concerning the taking of evidence

If the claim is uncontested, no evidence is required. If an entirely written procedure is used, only written evidence will be examined. There are no special provisions stating that specific rules would apply to the taking of evidence in small claims cases.

1.6 Written procedure

A case may be resolved without an oral hearing purely on the basis of written evidence. Noncontentious cases are always resolved in this manner. Contested claims can be resolved on the basis of written evidence alone if the nature of the case is such that no main hearing is necessary and none of the interested parties objects to the use of a written procedure.

1.7 Content of judgment

There are no specific provisions on the content of judgments in small claims cases.

1.8 Reimbursement of costs

As a rule, the losing party will be ordered to pay all reasonable legal costs incurred by his or her adversary in taking any necessary steps in the matter. However, ceilings have been decreed for the amount of costs to be reimbursed in the case of uncontested claims and in cases involving residential rent. In these cases, the maximum amount of costs that an unsuccessful defendant can be ordered to pay the claimant is taken from a cost table.

1.9 Possibility to appeal

The nature of the case has no bearing on the right to appeal. The appeal procedure is the same for all cases. Notice of intent to appeal a district court's decision must be given within a deadline, and the appeal is heard by a Court of Appeal (*hovioikeus*).

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Small claims - Sweden

1 Existence of a specific small claims procedure

Yes, there is a specific small claims procedure.

1.1 Scope of procedure, threshold

The specific small claims procedure is followed by the ordinary court of first instance (the district court, *tingsrätt*) when the plaintiff's claim falls below a certain threshold value. The threshold is currently (as of 2019) SEK 23 250. The threshold value is not an amount laid down in law, but is linked to what is known as the price base amount, and this means that the threshold value is calculated with reference to price trends.

1.2 Application of procedure

Access to this procedure is not restricted to certain case types, such as consumer disputes. The applicable criteria are that the case must be a civil action, and that the value of the dispute must lie below the threshold value. The procedure cannot be used in family cases.

1.3 Forms

The application form for initiating a European Small Claims Procedure is available on the Swedish National Courts Administration (*Domstolsverket*) website (https://www.domstol.se/tjanster-och-blanketter/tvist/).

1.4 Assistance

Help with initiating a procedure is available at a district court. State authorities have a general service obligation that is enshrined in law. This obligation means that people can telephone or visit a district court, for example, and receive general advice about the procedure and the rules that apply to it. The presiding judge is also obliged to ensure that the contentious matters at issue are clarified, and that the parties specify what they intend to rely upon in the case, during preparation for the case and depending on its nature. In practice, the judge discharges their duties by means of additional questions and remarks.

1.5 Rules concerning the taking of evidence

There are no special rules for cases concerning disputes involving small amounts. In other words, both verbal and written evidence may be submitted. Written witness statements are only permitted in certain special situations. More information about the rules on the taking of evidence for civil actions under Swedish law may be found here.

1.6 Written procedure

A court can deliver a judgment purely on the basis of written proceedings. This possibility is used where verbal proceedings are neither required with reference to the investigation of the case nor requested by either party.

1.7 Content of judgment

There are no special rules governing the formulation of a judgment in cases involving small amounts. The following applies to all civil actions, including judgments in cases involving small amounts. The judgment must be issued in writing and contain the following information in separate sections: the name of the court and the date and place of issue of the judgment, the parties and their representatives or counsel, the operative part of the judgment, the claims and pleadings of the respective parties and the circumstances on which they are based, and the grounds for the judgment, including information concerning what was proved in the case.

1.8 Reimbursement of costs

The special rules concerning costs are the most important special feature of cases involving small amounts. The party that wins the case is entitled only to compensation for one hour's legal advice on one occasion at each court, as well as the application fee, travel and subsistence expenses in connection with the court session, the costs of evidence from witnesses, and the costs of translating documents. The compensation will be awarded if the costs were claimed reasonably in order for the winning party to be able to enforce their rights. The remuneration of representatives is therefore not compensated for, over and above the amount corresponding to one hour's advice.

1.9 Possibility to appeal

A judgment issued by a lower court may be appealed against to a higher court.

Leave to appeal is required in order for the court of appeal (*hovrätt*) to examine the judgment by the district court. Leave to appeal may be granted only if it is important for the application of the law that the appeal be heard by a court of higher instance, if there are grounds for amending the conclusion reached by the district court or if there are other special reasons for an appeal. A party wishing to appeal against a judgment by a district court must do so in writing, and the appeal must reach the district court within three weeks of the issue date of the judgment.

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Small claims - England and Wales

1 Existence of a specific small claims procedure

1.1 Scope of procedure, threshold

There is a monetary threshold of £10000 below which the small claims procedure is available. However, the sum in dispute is not the only factor taken into consideration. Other considerations include the type of claim and the amount and type of preparation required to deal with the case justly. In some circumstances simple cases with a value greater than £10000 can be heard under the small claims procedure providing the claimant and defendant both consent to this.

As well as considering the views of the claimant and defendant, the judge will take into account the following factors when deciding whether to allocate the case to the small claims procedure (known as the small claims track) or whether instead to hear the case under the ordinary court procedure:

The amount in dispute - which should not normally be more than £10000.

The type of claim - these will usually be consumer claims (e.g. goods sold, faulty goods or workmanship), accident claims, disputes about ownership of goods, and disputes between landlords and tenants about repairs, deposits, rent arrears, and so on, but not possession.

The amount and type of preparation needed to be able to deal with the case justly will be taken into consideration by the judge when deciding whether the case should be allocated to the small claims track. The judge will have in mind that this procedure is intended to be simple enough for people to conduct their own cases without a lawyer's help, if they wish. The claim should require only minimal preparation for the final hearing, for example. Cases in the small claims track will not normally involve a lot of witnesses or difficult points of law.

If the claim is for less than £10000 but includes a claim for personal injury, or for housing disrepair to residential premises and damages arising from the disrepair, the case will not be allocated to the small claims track unless the amounts claimed in respect of personal injury, disrepair and damages are each no more than £1000.

Where cases for more than £10000 are heard in the small claims track different rules about costs apply. In such cases the winning party will be able to claim costs, including lawyer's costs, against the losing party. These costs cannot, however, be more than would have been awarded if the case had been dealt with in the fast track. More information about costs follows later. More information about the different types of track is available in the page How to proceed.

1.2 Application of procedure

While most cases up to £10000 are heard under the small claims track it is not automatic. The judge considers the litigants' views when deciding upon the procedure under which the case will be heard. Even although the amount in dispute is less than £10000, the judge may choose to hear the case under the ordinary court procedure rather than the small claims procedure.

When a claim is disputed (or defended) the claimant will be sent a copy of the defendant's defence and if a litigant in person a copy of Form 180 Direction Questionnaire. The information the parties provide in the questionnaires will help the judge decide which is the most appropriate track for the case. If the claimant considers that the case is one that should be dealt with as a small claim in the small claims track, he or she should indicate this in the questionnaire. However, even though the views of the claimant and the defendant will be taken into account, it is for the judge to decide to which track the case will be allocated.

As described above, the judge can decide to hear a case with a value of less than £10000 under the ordinary procedure. This decision is made at the outset of the case.

The judge has discretion to re-allocate the case from the small claims track to the ordinary procedure should he think fit. Where a claim is allocated to the small claims track and subsequently re-allocated to another track, the rules relating to costs on the small claims track will cease to apply after the claim has been re-allocated. The fast track or multi-track costs rules will apply from the date of re-allocation.

1.3 Forms

There are specific forms to be used in the small claims procedure and it is obligatory to use them.

In order to commence a claim the claimant will need to complete Form N1 which is available with notes for completion. Once the claimant completes the form he or she should make one copy for his or herself, one for the court and one for each defendant. The court will send each defendant a copy. More information is available in the page How to proceed.

As mentioned earlier, if the claim is defended the court will send a copy of the defence to the claimant and to litigants in person a copy of Form N180 http://formfinder.hmctsformfinder.justice.gov.uk/n180-eng.pdf to the claimant and defendant(s).

If the judge decides to allocate the case to the small claims track the court will send the parties form N157 (notice of allocation to the small claims court) which provides information as to when the hearing is and what steps have to be taken in preparation.

Where the sum in dispute is greater than £10000 but both parties have agreed to have the case heard under the small claims procedure form N160 (notice of allocation to small claims track (with parties' consent)) is sent by the court. This also provides information as to when the hearing is and what steps have to be taken in preparation.

Where a judge decides that a claim can be heard solely by written evidence and without the need for a hearing the court sends the parties form N159 (notice of allocation to the small claims track (no hearing)). This states a date by which time either the claimant or defendant must tell the court if he or she objects to a decision by written evidence only. Should either party object then the claim will be dealt with at a hearing. The judge may treat a lack of reply as consent.

Where a party loses a hearing but neither party was present or represented at that hearing Form N244 (application notice) is used to apply to have the judgment set aside.

1.4 Assistance

The small claims procedure is designed to be simple so that persons representing themselves (known as litigants-in-person) can understand the proceedings easily. Where either the claimant or the defendant is a litigant-in-person the judge will take this into consideration and will conduct the proceedings in a way that allows the litigant-in-person to understand what is going on and what is required of the parties procedurally.

If the claimant or the defendant chooses not to have a lawyer, he or she can be accompanied at the hearing by someone who can speak on his or her behalf. This person is called a 'lay representative' and can be anyone the litigant chooses, such as a spouse, a relative, a friend or an advice worker. If possible, the lay representative should not be a witness. The lay representative cannot attend a court hearing without the person he or she represents unless the litigant has obtained the court's permission allowing the lay representative to represent the litigant in his or her absence.

Advice agencies may have difficulties in releasing staff to act as lay representatives at hearings and therefore it is advisable for a party to contact them as early as possible if their assistance is required. The advice agencies will inform the parties about whether or not they can provide assistance. Some lay representatives may want to be paid and the litigant must make sure that he or she knows exactly how much this will be. The judge can tell a lay representative who misbehaves to leave the hearing.
The litigant will be responsible for paying the fee of the lay representative he or she appoints, even if he or she wins the case. They should consider, therefore, whether the amount of the claim is worth such a cost. Furthermore, lay representatives who charge for helping may not belong to a professional organisation, and if the litigant is not satisfied with their help there is no regulating body or organisation to whom to complain.
A Citizens' Advice Bureau or consumer advice centres may also be able to assist litigants.
The Internet can be used to issue the claim through Money Claim Online. Money Claim Online is supported by a help desk, should additional assistance be required.
Additional assistance is available to disabled litigants. If a litigant has a disability which makes going to court or communicating difficult, he or she should contact the court concerned which may be able to provide further assistance.

1.5 Rules concerning the taking of evidence

The small claims track is much more informal and the strict rules of evidence do not apply. The small claims track deals with simpler cases for lesser sums. Accordingly the court may adopt any method of proceeding at a hearing that it considers to be fair. The court is not required to take evidence on oath and the judge may choose to limit cross-examination should he or she consider this to be appropriate. The judge is however required to give reasons for his or her decision to limit cross-examination. The judge may choose to ask questions of any or all of the witnesses before allowing any other person to do so.

1.6 Written procedure

If the judge considers that the claim can be dealt with without a hearing using only written evidence, the court will advise the litigants using form N159 (see above). The notice will state a date by which time either the claimant or defendant must tell the court if he or she objects to a decision on written evidence only. Should either party object then the claim will be dealt with at a hearing. The judge may treat a lack of reply as consent. Providing neither party objects to the judge's decision to have no hearing, the case can be dealt with on paper only.

1.7 Content of judgment

In England and Wales court judgments usually record only the judge's decision and any orders made to the parties. The judge is, however, required to make a note of the central reasons for his judgment unless it is given orally and tape-recorded by the court. The judge is permitted to give his reasons as briefly and simply as the nature of the case allows. He will normally do so orally at the hearing but he may give them later either in writing or at a hearing fixed for him to do so. Where the judge has decided the case without a hearing the judge is required to prepare a note of his reasons and the court will send a copy to each party.

1.8 Reimbursement of costs

There are restrictions on the reimbursement of costs. Currently the winning party may be able to claim reimbursement for the following costs:
Any court fees he or she has paid;
An amount of not more than £260 for legal advice if the claim included an application for an injunction (an order to stop someone doing something), or an order for specific performance (an order to make someone do something, for example, a landlord to carry out repairs), other than these categories no legal costs may be recovered;
An amount of not more than £95 per day each for the winning party, and any witness he or she may have for loss of earnings due to attending the court hearing;
Reasonable expenses to cover additional travelling and overnight stays for the party or witnesses;
If the judge has given permission for use of an expert witness and that party subsequently wins his/her case, the judge may tell the losing party to pay something towards the cost. However, the judge cannot allow more than £750 per expert witness. This may not cover the full amount of the expert's fees, especially if the expert writes a report and attends the court hearing;
Further costs may be ordered by the judge to be paid by a party who has behaved unreasonably;
Where the financial value of the claim exceeds the limit for the small claims track, but the claim has been allocated to the small claims track by the judge, costs will be assessed in accordance with this track, unless the parties agree that the fast track cost provisions should apply.
More information can be found on the website of the Ministry of Justice.

1.9 Possibility to appeal

If the losing party wishes to appeal against the judge's decision, he or she will need permission to do so. If that party/litigant attends the hearing at which the decision is made, he or she can ask the judge for permission at the end of the hearing.
The litigant who wishes to appeal must have proper grounds (or reasons) to appeal. He or she cannot simply object to a judge's decision because he or she thinks the wrong decision was made.
If a litigant wants to appeal he or she must act quickly. The time within which the appealing litigant must issue his or her appeal is limited.
If the losing party was neither present nor represented at the hearing, he or she may apply for judgment made at that hearing to be set aside and the claim re-heard.
That party must make an application not more than 14 days after receiving the judgment. He or she should ask the court for a Form N244 (application notice) in order to make the application.
The court will tell the parties when they must come to court for the hearing of the application before a judge.
The judge will only grant an application for judgment to be set aside if:
The litigant/party had a good reason for either
not attending or being represented at the hearing; or
not giving written notice to the court;
and the party has a reasonable prospect of being successful at a re-hearing.
If the party's application is successful and judgment is set aside, the court will fix a new hearing for the claim. In a straightforward claim the judge may decide to deal with the case immediately after the hearing of the application.

Related links

Ministry of Justice
Court addresses
Mediation in small claims disputes

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Small claims - Northern Ireland

1 Existence of a specific small claims procedure

There is a Small Claims Procedure in Northern Ireland. Small claims courts are designed to allow certain types of small claims to be decided informally in the county court, usually without the need for legal representation.

1.1 Scope of procedure, threshold

In general, the small claims procedure may be used where the amount of money or the value of the goods involved is not more than £3000. However some types of claims are excluded, for example, claims involving personal injuries, libel or slander, a legacy or annuity, ownership of land, property of a marriage and road traffic accidents.

1.2 Application of procedure

The procedure is optional and the judge has the power in certain circumstances to direct that an application be transferred to the county court.

1.3 Forms

The County Court Rules (Northern Ireland) 1981 [S.R.1981 No.225] contains forms which should be used during the small claims procedure. Forms are prescribed for commencing proceedings, disputing the claim and accepting liability. There is also a form to apply for a default judgment as well as a form to have the judgment set aside.

1.4 Assistance

The small claims procedure is designed to be informal. Court staff will be able to assist in completing the necessary forms and in explaining the process. However, they cannot offer legal advice.

A Citizens' Advice Bureau or consumer advice centres may also be able to assist litigants.

If a litigant has a disability which makes going to court or communicating difficult, he or she should contact the Customer Service Officer of the court concerned who may be able to provide further assistance.

1.5 Rules concerning the taking of evidence

The small claims court is informal and the strict rules of evidence do not apply. Accordingly the court may adopt any method of proceeding at a hearing that it considers to be fair. All parties must, subject to any legal objection, agree to be examined by the judge on oath.

1.6 Written procedure

If the case is not disputed and is for a set amount, the claim can be dealt with without a hearing using only written evidence. This is known as a default judgement.

1.7 Content of judgment

The judge will usually give an oral decision outlining his reasons. He may however, choose to give a written judgment.

1.8 Reimbursement of costs

There are restrictions on the reimbursement of costs. Currently, the judge may order that the following costs are paid:

Court fees; and

Expert witness expenses.

If there has been unreasonable conduct by one of the parties the judge may award costs against that party. If the proceedings were properly started in the county court, the judge may award appropriate costs.

1.9 Possibility to appeal

Where the losing party was either present or represented at the hearing an appeal can only be taken by asking the judge to state the reasons for his decision and applying to the High Court for a determination as to whether the judge's decision was correct in law.

Where the losing party was neither present nor represented at the hearing and the losing party contacts the small claims office, after any decree or judgment has issued, stating that he did not receive the application or did not receive it in sufficient time to reply, or for any other reason he did not reply in time then he will be advised to issue an application asking that the decree be set aside. The winning party will be sent a copy of the application and will be invited to reply in writing to it within 14 days. The Judge, having considered the application and any reply may either:

decide that there is a valid reason for the failure to reply and may set the judgment aside without a court hearing and may give a direction on how the case is to proceed. The parties will be notified by the small claims office of any order made by the Judge or

fix a date for hearing the application to set aside the decree. The parties will be notified of this date and invited to attend. The small claims office will also send to the parties a copy of any order the Judge makes after dealing with an application of this type.

Likewise if the losing party's documentation is returned to the small claims office by the post office and it is clear that he was not aware of the claim being made, then the court office will ask the Judge to revoke any decree that has been made and will contact the winning party to supply additional information e. g. a new address for the respondent.

Related links

Further information regarding the procedures can be obtained from the Northern Ireland Courts and Tribunals Service website.

Assistance for Disabled Litigants

Some court offices have designated Customer Service Officers who might be able to assist. If they cannot help, the disabled litigant can contact the Court Service Information Centre on +44 300 200 7812.

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Small claims - Scotland

1 Existence of a specific small claims procedure

In Scotland, prior to 28 November 2016, Sheriff Courts had a small claims procedure which was a simplified procedure dealing with monetary claims up to a threshold of £3,000.

From 28 November 2016, a new form of claim was introduced known as Simple Procedure.

The next procedure above that is called Summary Cause, which deals with cases up to £5,000 and is slightly more complicated than Simple Procedure.

Simple Procedure

As from 28 November 2016, anyone raising a claim which has a monetary value of £5,000 or less which seeks payment, delivery, recovery of possession of moveable property, or an order for someone to do something specific, should use the Simple Procedure.

Simple Procedure is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes where the monetary value does not exceed £5,000.

A claim is made to the Sheriff Court by a claimant. The party against whom the claim is made is known as the respondent. The final decision in a claim is made by a sheriff or a summary sheriff. You do not need to use a solicitor to use the Simple Procedure but you may do so if you wish.

Further information on Simple Procedure can be found on the Scottish Courts and Tribunals Service website.

1.1 Scope of procedure, threshold

Simple Procedure replaces the previous small claims procedure. It also replaces the Summary Cause procedure, but **only** where it relates to actions for payment, delivery or for recovery of possession of moveable property, or actions which order someone to do something.

Summary Cause actions can be raised as actions of furthcoming (a type of action raised for the recovery of money or property), count reckoning and payment, recovery of possession of heritable property, delivery, and interim aliment. If there is an alternative claim for payment this would have to be below £5,000.

1.2 Application of procedure

An action raised as either a Simple Procedure or Summary Cause must follow the court rules, which are obligatory. These can be found on the Scottish Courts and Tribunals Service website.

1.3 Forms

There are specific forms for all stages of Simple Procedure and Summary Cause e.g. claims form/summons for raising the action, form of decision/extract decree. It is obligatory to use the forms, which are set out in the Simple Procedure Rules 2016 and Summary Cause Rules 2002. These forms are on the Scottish Courts and Tribunals Service website.

1.4 Assistance

The Sheriff Clerk's Office may assist in completing of the claim form (Form 3A) and advice agencies like the Citizens Advice Bureau also offer assistance. If further information on Simple Procedure is required, contact should be made with the claimant's local Sheriff Court.

Information on the Sheriff Courts in Scotland can be found on the Scottish Courts and Tribunals Service website.

1.5 Rules concerning the taking of evidence

Simple Procedure hearings are conducted as informally as the circumstances of the claim permit. The Sheriff or summary Sheriff explains any legal terms or expressions which are used. Documents and other evidence can be lodged with the court and the simple rules set out the procedures for this purpose including what is to be sent to either the claimant or respondent and any applicable time limits for the lodging of documents or other evidence.

1.6 Written procedure

The procedure would be purely written if the action is undefended. If defended, however, the case may require to call in court by way of a hearing or alternatively the Sheriff or summary Sheriff may make a decision without a hearing.

The Sheriff or summary Sheriff may also decide to have a case management discussion. A case management discussion takes place in the courtroom or any other place decided by the Sheriff or summary Sheriff. The Sheriff or summary Sheriff will also decide how the discussion will take place, for example, by video conference, conference call or any other format that they decide.

1.7 Content of decision

At the end of the hearing, the Sheriff or summary Sheriff may either make a decision there and then, or may take time to consider before making a decision. Where the Sheriff or summary Sheriff takes time to consider a decision, the decision must be made within 4 weeks from the date of the hearing.

Where a decision is made with the parties present, the Sheriff or summary Sheriff must explain the reasons for that decision. If time is taken to consider the decision, a note must be prepared setting out the reasons for the decision.

1.8 Reimbursement of costs

There will normally be no award of expenses made in a Simple Procedure claim in which the value of the claim is less than or equal to £300.

If the value is greater than £300 but less than or equal to £1500, the maximum amount of expenses which can normally be awarded by the court to the successful party may not exceed £150.

If the value is greater than £1,500 but less than or equal to £3,000, the maximum amount of expenses which can normally be awarded by the court to the successful party may not exceed 10% of the value of the claim.

For claims where the value is between £3,001 and £5,000, the general rule that whoever is unsuccessful pays the expenses of the successful party similarly applies. If one party has a solicitor, these expenses could be higher. Further information on expenses can be found on the Scottish Courts and Tribunals Service website.

Summary Cause actions do not have the same restrictions and an account of expenses is normally assessed by the Sheriff Clerk, which is then subsequently approved by the Sheriff or summary Sheriff.

1.9 Possibility to appeal

A Simple Procedure decision can be appealed. An appeal to the Sheriff Appeal Court must be by note of appeal in Form 16A and lodged with the court that dealt with the Simple Procedure claim within 4 weeks from the Decision Form being sent by the Sheriff Clerk to the successful party. Separate appeal provisions are made for Summary Cause and further information can be found on the Scottish Courts and Tribunals Service website.

However, in an undefended Simple Procedure case, an application for the recall of a decision of the Sheriff or summary Sheriff can be made to the court. This can be done in certain circumstances and the application must be made in Form 13B. Further information on the recall of decision procedure can be found on the Scottish Courts and Tribunals Service website.

Related links

The Scottish Courts and Tribunals Service website includes the Ordinary, Summary Cause and Simple Procedure Rules.

Summary Sheriff

The post of summary sheriff was established by the Courts Reform (Scotland) Act 2014. Further information can be found on the Judiciary of Scotland website.

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Small claims - Gibraltar

1 Existence of a specific small claims procedure

1.1 Scope of procedure, threshold

In Gibraltar, the Supreme Court has a small claims jurisdiction which is also known as the small claims track. There is a monetary threshold of £10000 below which the small claims procedure is available. However, the sum in dispute is not the only factor taken into consideration. Other considerations include the type of claim and the amount and type of preparation required to deal with the case justly. In some circumstances simple cases with a value greater than £10000 can be heard under the small claims procedure providing the claimant and defendant both consent to this.

As well as considering the views of the claimant and defendant, the judge will take into account the following factors when deciding whether to allocate the case to the small claims procedure or whether instead to hear the case under the ordinary court procedure:

The amount in dispute - which should not normally be more than £10000.

The type of claim - these will usually be consumer claims (e.g. goods sold, faulty goods or workmanship), accident claims, disputes about ownership of goods, and disputes between landlords and tenants about repairs, deposits, rent arrears, and so on, but not possession.

The amount and type of preparation needed to be able to deal with the case justly will be taken into consideration by the judge when deciding whether the case should be allocated to the small claims track. The judge will have in mind that this procedure is intended to be simple enough for people to conduct their own cases without a solicitor's help, if they wish. The claim should require only minimal preparation for the final hearing, for example. Cases in the small claims track will not normally involve a lot of witnesses or difficult points of law.

If the claim is for less than £10000 but includes a claim for personal injury, or for housing disrepair to residential premises and damages arising from the disrepair, the case will not be allocated to the small claims track unless the amounts claimed in respect of personal injury, disrepair and damages are each no more than £1000.

Where cases for more than £10000 are heard in the small claims track different rules about costs apply. In such cases the winning party will be able to claim costs, including solicitor's costs, against the losing party. These costs cannot, however, be more than would have been awarded if the case had been dealt with in the fast track. More information about costs follows later.

1.2 Application of procedure

While most cases up to £10000 are heard under the small claims track it is not automatic. The judge considers the litigants' views when deciding upon the procedure under which the case will be heard. Even although the amount in dispute is less than £10000, the judge may choose to hear the case under the ordinary court procedure rather than the small claims procedure.

When a claim is disputed (or defended) the claimant will be sent a copy of the defendant's defence. The parties will also need to file an ‘Allocation Questionnaire’. The information the parties provide in the questionnaire will help the judge decide which is the most appropriate track for the case. If the parties consider that the case is one that should be dealt with as a small claim in the small claims track, he or she should indicate this in the questionnaire. However, even though the views of the claimant and the defendant will be taken into account, it is for the judge to decide to which track the case will be allocated.

As described above, the judge can decide to hear a case with a value of less than £10000 under the ordinary procedure. This decision is made at the outset of the case.

The judge has discretion to re-allocate the case from the small claims track to the ordinary procedure should he think fit. Where a claim is allocated to the small claims track and subsequently re-allocated to another track, the rules relating to costs on the small claims track will cease to apply after the claim has been re-allocated. The fast track or multi-track costs rules will apply from the date of re-allocation.

1.3 Forms

There are specific forms to be used in the small claims procedure and it is obligatory to use them.

In order to commence a claim the claimant will need to complete Form N1 which is available with notes for completion for both the claimant and the defendant. Once the claimant completes the form he or she should make one copy for his or herself, one for the court and one for each defendant. The court will send each defendant a copy. More information is available in the page Bringing a Case to Court.

As mentioned earlier, if the claim is defended the court will send a copy of the defence to the claimant and to both parties the allocation questionnaires.

If the judge decides to allocate the case to the small claims track the court will send the parties form N157 (notice of allocation to the small claims court) which provides information as to when the hearing is and what steps have to be taken in preparation.

Where the sum in dispute is greater than £10000 but both parties have agreed to have the case heard under the small claims procedure form N160 (notice of allocation to small claims track (with parties' consent)) is sent by the court. This also provides information as to when the hearing is and what steps have to be taken in preparation.

Where a judge decides that a claim can be heard solely by written evidence and without the need for a hearing the court sends the parties form N159 (notice of allocation to the small claims track (no hearing)). This states a date by which time either the claimant or defendant must tell the court if he or she objects to a decision by written evidence only. Should either party object then the claim will be dealt with at a hearing. The judge may treat a lack of reply as consent.

Where a party loses a hearing but neither party was present or represented at that hearing Form N244 (application notice) is used to apply to have the judgment set aside.

1.4 Assistance

The small claims procedure is designed to be simple so that persons representing themselves (known as litigants-in-person) can understand the proceedings easily. Where either the claimant or the defendant is a litigant-in-person the judge will take this into consideration and will conduct the proceedings in a way that allows the litigant-in-person to understand what is going on and what is required of the parties procedurally.

If the claimant or the defendant chooses not to have a lawyer, he or she can be accompanied at the hearing by someone who can speak on his or her behalf. This person is called a 'lay representative' and can be anyone the litigant chooses, such as a spouse, a relative, a friend or an advice worker. If possible, the lay representative should not be a witness. The lay representative cannot attend a court hearing without the person he or she represents unless the litigant has obtained the court's permission allowing the lay representative to represent the litigant in his or her absence.

Advice agencies may have difficulties in releasing staff to act as lay representatives at hearings and therefore it is advisable for a party to contact them as early as possible if their assistance is required. The advice agencies will inform the parties about whether or not they can provide assistance. Some lay representatives may want to be paid and the litigant must make sure that he or she knows exactly how much this will be. The judge can tell a lay representative who misbehaves to leave the hearing.

The litigant will be responsible for paying the fee of the lay representative he or she appoints, even if he or she wins the case. They should consider, therefore, whether the amount of the claim is worth such a cost. Furthermore, lay representatives who charge for helping may not belong to a professional organisation, and if the litigant is not satisfied with their help there is no regulating body or organisation to whom to complain.

Additional assistance is available to disabled litigants. If a litigant has a disability which makes going to court or communicating difficult, he or she should contact the court concerned which may be able to provide further assistance.

1.5 Rules concerning the taking of evidence

The small claims track is much more informal and the strict rules of evidence do not apply. The small claims track deals with simpler cases for lesser sums. Accordingly the court may adopt any method of proceeding at a hearing that it considers to be fair. The court is not required to take evidence on oath and the judge may choose to limit cross-examination should he or she consider this to be appropriate. The judge is however required to give reasons for his or her decision to limit cross-examination. The judge may choose to ask questions of any or all of the witnesses before allowing any other person to do so.

1.6 Written procedure

If the judge considers that the claim can be dealt with without a hearing using only written evidence, the court will advise the litigants using form N159 (see above). The notice will state a date by which time either the claimant or defendant must tell the court if he or she objects to a decision on written evidence only. Should either party object then the claim will be dealt with at a hearing. The judge may treat a lack of reply as consent. Providing neither party objects to the judge's decision to have no hearing, the case can be dealt with on paper only.

1.7 Content of judgment

In Gibraltar court judgments usually record only the judge's decision and any orders made to the parties. The judge is, however, required to make a note of the central reasons for his judgment unless it is given orally and tape-recorded by the court. The judge is permitted to give his reasons as briefly and simply as the nature of the case allows. He will normally do so orally at the hearing but he may give them later either in writing or at a hearing fixed for him to do so. Where the judge has decided the case without a hearing the judge is required to prepare a note of his reasons and the court will send a copy to each party.

1.8 Reimbursement of costs

There are restrictions on the reimbursement of costs. Currently the winning party may be able to claim reimbursement for the following costs:

Any court fees he or she has paid;

An amount of not more than £260 for legal advice if the claim included an application for an injunction (an order to stop someone doing something), or an order for specific performance (an order to make someone do something, for example, a landlord to carry out repairs), other than these categories no legal costs may be recovered;

An amount of not more than £90 per day each for the winning party, and any witness he or she may have for loss of earnings due to attending the court hearing;

Reasonable expenses to cover additional travelling and overnight stays for the party or witnesses;

If the judge has given permission for use of an expert witness and that party subsequently wins his/her case, the judge may tell the losing party to pay something towards the cost. However, the judge cannot allow more than £200 per expert witness. This may not cover the full amount of the expert's fees, especially if the expert writes a report and attends the court hearing;

Further costs may be ordered by the judge to be paid by a party who has behaved unreasonably;

Where the financial value of the claim exceeds the limit for the small claims track, but the claim has been allocated to the small claims track by the judge, costs will be assessed in accordance with this track, unless the parties agree that the fast track cost provisions should apply.

1.9 Possibility to appeal

If the losing party wishes to appeal against the judge's decision, he or she will need permission to do so. If that party/litigant attends the hearing at which the decision is made, he or she can ask the judge for permission at the end of the hearing.

The litigant who wishes to appeal must have proper grounds (or reasons) to appeal. He or she cannot simply object to a judge's decision because he or she thinks the wrong decision was made.

If a litigant wants to appeal he or she must act quickly. The time within which the appealing litigant must issue his or her appeal is limited.

If the losing party was neither present nor represented at the hearing, he or she may apply for judgment made at that hearing to be set aside and the claim re-heard.

That party must make an application not more than 14 days after receiving the judgment. He or she should ask the court for a Form N244 (application notice) in order to make the application.

The court will tell the parties when they must come to court for the hearing of the application before a judge.

The judge will only grant an application for judgment to be set aside if:

The litigant/party had a good reason for either

not attending or being represented at the hearing; or

not giving written notice to the court;

and the party has a reasonable prospect of being successful at a re-hearing.

If the party's application is successful and judgment is set aside, the court will fix a new hearing for the claim. In a straightforward claim the judge may decide to deal with the case immediately after the hearing of the application.

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