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European payment order

 Bulgaria

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European Judicial Network
(in civil and commercial
matters)

1 Existence of an order for payment procedure

Chapter 37 – ‘Enforcement Proceedings’ – of the Code of Civil Procedure (State Gazette No 59 of 20 July 2007; in force from 1 March 2008; last amended in State Gazette No 86/2017) lays down a simplified procedure whereby claimants can collect receivables if their claim is unlikely to be contested by the defendant.

1.1 Scope of procedure

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

Enforcement orders may be issued under Article 410 of the Code of Civil Procedure at the request of creditors for the following claims:

- claims for sums of money or substitutable goods, if the claim comes within the jurisdiction of the district court;
- the transfer of movable goods given to the debtor on condition that he/she return them, or that constituted collateral, or were made over by the debtor on condition that ownership be transferred, if the claim comes within the jurisdiction of the district court.

The application must meet the requirements of Article 127(1) and (3) and Article 128(1) and (2) of the Code of Civil Procedure, and indicate a bank account or other method of payment.

Furthermore, Article 417 of the Code of Civil Procedure expressly provides that the applicant may also request the issue of an enforcement order where the claim, regardless of its value, concerns

- an act of an administrative authority, in accordance with which the civil courts are competent to grant enforcement;
- a document or statement of accounts establishing claims of government institutions, municipalities or banks;
- a notarial act, settlement or other contract bearing notarised signatures in respect of the obligations contained therein to pay amounts of money or other substitutable goods, as well as obligations to transfer particular goods;
- an extract from the Special Pledges Register concerning a registered security and initiation of enforcement in the case of the transfer of goods that constitute collateral;
- an extract from the Special Pledges Register concerning a registered hire purchase sales contract, or a leasing contract in the case of the return of sold or leased goods;
- a contract of pledge or a mortgage deed pursuant to Article 160 and Article 173(3) of the Obligations and Contracts Act;
- a valid deed for the establishment of a private, State or municipal claim when its enforcement is done under the procedure of the Code of Civil Procedure;
- a notice of deficiency;
- a promissory note, bill of exchange or other equivalent bearer security, as well as a bond or the corresponding coupon bond.

If the application is accompanied by a document under Article 417 of the Code of Civil Procedure, on which the claim is based, the creditor may request the court to order immediate enforcement and issue a writ of execution.

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

Where the claim originates from some of the deeds under Article 417 of the Code of Civil Procedure, there is no upper limit in terms of its value.

Pursuant to the remaining provisions on pecuniary claims, claims for substitutable goods or transfer of moveable property, an enforcement order may be issued only where the claim falls within the jurisdiction of the district court. The district court is responsible for the claims in civil and commercial matters with value of the claim up to BGN 25,000, and all claims for maintenance, labour disputes and claims from notice of deficiency.

1.1.3 Is the use of that procedure optional or obligatory?

The use of the procedures is not obligatory. Even if prerequisites for the issue of an enforcement order exist, the claimant is not obliged to choose this procedure of defence, but may bring a claim under the general claims procedure.

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

An enforcement order is not issued where the debtor has no permanent address and usual residence, or seat and place of business in the territory of the Republic of Bulgaria.

1.2 Competent court

The application is submitted to the district court for the permanent address or seat of the debtor, and the court has three days to carry out an official check of local jurisdiction. If the court declines jurisdiction, it passes the case on to the competent court.

1.3 Formal requirements

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

The use of application forms approved by the Minister of Justice is obligatory. The applications constitute an annex to Regulation No 6 of 20 February 2008 on the approval of forms for enforcement orders, applications for the issue of an enforcement order and other papers related to the 'order for payment' procedure, issued by the Minister of Justice (Article 425 of the Code of Civil Procedure).

1.3.2 Is representation by a lawyer required?

Not compulsory

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

The application must set out the circumstances upon which the claim is based and the essence of the request.

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

Under Article 410 of the Code of Civil Procedure it is not necessary to attach to the application any evidence for establishing the claim. The applicant may attach such evidence; however, he/she is not obliged to do so, because the procedure is intended only to verify whether the claim is questionable. It is sufficient for the applicant to maintain that his/her claim exists. If the debtor contests the enforcement order, the verification of the existence of the claim is carried out within the claim proceedings. The application must be accompanied by a power of attorney if submitted by a proxy, as well as a proof of paid stamp fees and legal expenses, where appropriate.

1.4 Rejection of application

The application for the issue of an enforcement order Under Article 410 of the Code of Civil Procedure is rejected in the following cases:

- where the claim does not meet the requirements of Article 410 of the Code of Civil Procedure, i.e. it does not refer to payment of money or substitutable goods with a price up to BGN 25,000, or moveable goods of the category pursuant to Paragraph 1, Point 2 of Article 410 of the Code of Civil Procedure, respectively; also if the application does not comply with the requirements of regularity, then the application does not stay without motion, but is directly rejected. Only in exceptional cases, where the applicant did not use the approved application form, or used an improper form, the court gives him/her instructions to remedy this irregularity, attaching the relevant form (Article 425(2) of the Code of Civil Procedure) to the notice.
- where the claim is in conflict with the law or good morals.
- where the debtor has no permanent address or seat in the territory of the Republic of Bulgaria, or when he/she has no usual residence or place of business within the territory of the Republic of Bulgaria.

1.5 Appeal

The enforcement order may not be appealed by the parties, except in the part regarding the costs. An order rejecting, wholly or partially, the application may be appealed by the applicant to the relevant regional court with a private appeal of which no copy of service is submitted. The order for immediate enforcement which the court issues in the cases of a document submitted in accordance with Article 417 of the Code of Civil Procedure is also subject to appeal. A private appeal against the order for immediate enforcement must be submitted together with the objection against the issued enforcement order and may be based only on considerations derived from the acts under Article 417 of the Code of Civil Procedure.

1.6 Statement of opposition

Once debtors have received the enforcement order, they may lodge a written objection to it or part thereof within two weeks and no justification is required, except in the cases referred to in Article 414a of the Code of Civil Procedure:

- they have fulfilled their obligation
- they did not incur any costs because their conduct did not give rise to the lodging of the claim. In such cases, the objection must be sent to the applicant for observations within 3 days. If the applicant fails to submit observations, the court invalidates the order for payment, in whole or in part, including the part relating to costs. If a writ of execution has been issued on the basis of the enforcement order, it will also be invalidated in accordance with Article 208 of the Code of Civil Procedure.

1.7 Effect of statement of opposition

Where the debtor lodges an objection within the time limit, when the enforcement order is served under the conditions of Article 47(5) of the Code of Civil Procedure (affixing a notice to the address) and where the court has refused to issue an enforcement order, the court instructs the applicant that he/she may bring an action to establish his/her claim within one month, paying the State fee due and ordering suspension of enforcement if it has issued a writ of execution under Article 418 of the Code of Civil Procedure. If the applicant fails to provide evidence that he/she has brought declaratory action within the specified deadline, the court invalidates the payment order, whether in whole or in the part for which no claim has been made.

1.8 Effect of lack of statement of opposition

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

Pursuant to Article 416 of the Code of Civil Procedure, if there is no objection submitted in due time, or the objection is withdrawn, the enforcement order becomes effective and on its basis the court issues a writ of execution, which will accordingly be stated on the order.

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

Within one month of becoming aware of an enforcement order, a debtor who has not been given the opportunity to contest the claim may submit an objection to the court of appeal, if:

- the enforcement order was not duly served on him/her;
- the enforcement order was not served on him/her personally and, on the date of its being served, he/she was not habitually resident in Bulgaria;
- the debtor was unable to know in time about the enforcement order being served owing to specific unforeseen circumstances;
- the debtor was unable to submit an objection owing to specific unforeseen circumstances that proved to be insurmountable.

The submission of this objection does not suspend the enforcement of the order, but at the request of the debtor and following presentation of the appropriate security by the latter, the court may suspend the enforcement (Article 423(2) of the Code of Civil Procedure).

The court accepts the objection if availability of the prerequisites listed above is found. If the court of appeal accepts the objection because the debtor has no permanent address or seat in the territory of the Republic of Bulgaria, or has no habitual residence or place of business in the territory of the Republic of Bulgaria, then it officially invalidates the enforcement order and the writ of execution issued thereon. Otherwise, if the court of appeal accepts the objection, it suspends the enforcement of the issued order and returns the case to the district court instructing the applicant that he/she may bring an action in respect of his/her claim within one month by paying the balance of the due stamp fee (Article 423(3) of the Code of Civil Procedure),

Furthermore, the debtor may contest, in a claims procedure, the claim for which an enforcement order has been issued if new facts or new written evidence of essential importance for the case are found that could not have been known to him/her during the period for filing the objection, or which he/she could not obtain within the same time limit. The action may be brought within three months from the date on which the new circumstance has become known to the debtor, or from the date on which he/she was able to obtain the new written evidence, but not later than one year from the end of the compulsory recovery of the claim (Article 424 of the Code of Civil Procedure).

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