Small claims

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European Judicial Network (in civil and commercial matters)

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 procedure[3]: 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:

1. 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 https://www.tiesas.lv/, section *Tiesas* ('courts'), *Tiesu darbības teritorijas* ('territorial jurisdiction of courts').
2. 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).
3. 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.
4. 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.
5. 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.
6. 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:

1. the name of the court to which the observations are submitted;
2. 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;
3. 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;
4. the case number and subject matter of the claim;
5. whether they admit the claim, in whole or in part;
6. their objections against the claim, the grounds on which they are based, and the legislation on which they are based;
7. evidence supporting their objections against the claim;
8. requests for disclosure of evidence;
9. whether the respondent wishes to recover the court costs;
10. whether the respondent wishes to recover expenses relating to the conduct of the case, indicating the amount and enclosing documents substantiating the amount;
11. whether the respondent requests that the case be heard in court;
12. any other circumstances that the respondent considers as important for the hearing of the case;
13. any other requests;
14. a list of documents enclosed with the observations;
15. 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.

Last update: 08/05/2024