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European payment order

 Poland

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European Judicial Network
(in civil and commercial
matters)

1 Existence of an order for payment procedure

1.1 Scope of procedure

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

The court issues an order for payment if the claimant purses a money claim or another, substitute performance.

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

An order for payment may be issued irrespective of the amount of the claim.

1.1.3 Is the use of that procedure optional or obligatory?

The procedure is optional. The court issues an order for payment at the written request of the claimant raised in the statement of claim.

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

An order for payment procedure cannot be instituted if the order for payment cannot be served on the defendant in Poland.

1.2 Competent court

The order for payment procedure is subject to the jurisdiction of district (*rejonowy*) and regional (*okręgowy*) courts.

1.3 Formal requirements

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

There is no standardised form.

1.3.2 Is representation by a lawyer required?

It is not mandatory to be represented by a lawyer (*przymus adwokacki*) in an order for payment procedure.

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

The statement of claim should specify the claim precisely and set out the factual circumstances justifying the claim.

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

Circumstances justifying the claim must be proven by enclosing the following documents with the statement of claim:

- a) an official document;
- b) a bill accepted by the debtor;
- c) a demand for payment addressed to the debtor and the debtor's written statement of acknowledgment of the debt;
- d) a demand for payment accepted by the debtor, returned by the bank and unpaid due to the lack of funds in the bank account.

The court also issues an order for payment against the obligor under a properly completed promissory note, cheque, warrant or IOU, the authenticity and content of which is beyond doubt.

1.4 Rejection of application

The court will reject the statement of claim:

1. if a judicial procedure is not permissible;
2. if the case for the same claim between the same parties is pending or has already been finally adjudged;
3. if one of the parties has no capacity to be a party to legal proceedings or if the claimant has no capacity to carry out procedural acts and is not represented by a statutory representative, or if the composition of the governing bodies of the claimant organisational unit is deficient to an extent that prevents it from acting.

1.5 Appeal

See paragraph 1.6.

1.6 Statement of opposition

A written statement of opposition is to be lodged with the court that issued the order for payment. In the statement, the respondent should specify whether they are opposing the order in its entirety or in part and present the pleas in law, which must be submitted before entering the dispute concerning the substance of the case, failing which the right to raise them will be lost, as well as the factual circumstances and evidence. The court will disregard assertions and evidence submitted late, unless the party shows that they were not at fault for the failure to submit them as part of the statement of opposition or that allowing late assertions and evidence will not delay hearing the case or that other exceptional circumstances apply.

1.7 Effect of statement of opposition

If a statement of opposition has been submitted correctly, the judge sets the date for the hearing and orders the statement to be served on the claimant.

1.8 Effect of lack of statement of opposition

Once issued, an order for payment constitutes a preservation order (*tytuł zabezpieczenia*) and can be enforced without having to be declared enforceable.

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

After the expiry of the time limit for submitting a statement of opposition, the order for payment becomes enforceable without further formalities.

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

An order for payment issued under the order for payment procedure is not open to appeal.

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