

[Home](#) > ... > [Money/monetary Claims](#) > [Small Claims](#) > Romania

Small claims



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(in civil and commercial
matters)

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 the amount of 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 that 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 is an option. 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 their claim, it will be dealt with under common law. The court competent to settle the claim at first instance is the district court. Territorial jurisdiction is established under common 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 application form, the form amending or/and correcting the application form, and the response form.

1.4 Assistance

In accordance with Article 11(1) of Regulation No 861/2007, as amended, practical assistance in filling in the application form is provided by the lawyers appointed for this purpose on a rotating basis, every three months, as part of the judicial assistance service by each bar association. The list of lawyers thus appointed and their contact details can be seen on the website of the National Union of Romanian Bar Associations and of each association, and is communicated to each court for display at their premises and on the court portal. For the

practical assistance provided, the lawyer is entitled to a fee, which is fixed by the protocol concluded, in accordance with the law, for determining the fees payable to lawyers for the provision of out-of-court and legal aid services. The lawyer shall not be entitled to receive from the person assisted any remuneration or other reward, in whatever form (Article 1 of Article I¹⁰ of Emergency Government Order No 119/2006 on measures necessary to implement certain Community Regulations from the date of Romania's accession to the EU, approved by Law No 191/2007, as amended).

1.5 Rules concerning the taking of evidence

The court may also admit other evidence besides the parties' submissions. However, evidence that is disproportionately expensive to gather compared to the value of the claim or the counterclaim lodged is not admitted.

1.6 Written procedure

Article 1029 *et seq.* of the new Code of Civil Procedure state that a claimant initiates a small claims procedure by completing the application form and submitting or dispatching 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 application form. If the information provided by the claimant is either not sufficiently clear or inadequate, or the application form has not been filled in accurately, the court offers the claimant the possibility of completing or correcting the form or of submitting additional information or documents, except in cases where the claim is manifestly unsubstantiated or inadmissible. A claim is dismissed if it is manifestly unsubstantiated 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 an accurately completed application form, the court will send the response form to the defendant, together with a copy of the application form and copies of the claimant's submissions. The defendant has to submit the response form duly completed within 30 days from the service of documents, as well as copies of documents they intend to use. The defendant may reply by any other adequate means without using the response form. The court will immediately serve the claimant copies of the defendant's response, the counterclaim, if applicable, and the defendant's submissions. If the defendant has filed a counterclaim, the claimant must submit the duly-completed response form or reply by any other means within 30 days from the date when it was served. A counterclaim that cannot be dealt with under this procedure will be separated and settled under the ordinary procedure. 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 counterclaim 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

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

1.8 Reimbursement of costs

Article 1032 of the new Code of Civil Procedure states that the unsuccessful party is held liable to pay litigation 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 of its being served. If grounds exist, the appeal court may suspend enforcement provided that a security is set for 10% of the contested value. The decision of the appeal court is served to the parties and is final.

■ Last update: 08/09/2025

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