

“Order for payment” procedures - Estonia

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1 Existence of an order for payment procedure

Yes. Chapter 49 of the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*) regulates the expedited procedure for payment orders.

1.1 Scope of procedure

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

This procedure applies to claims arising from private law relationships and for the payment of certain sums of money.

The expedited procedure for payment orders does not apply to non-contractual claims, except:

- certain claims arising from the Motor Third Party Liability Insurance Act (*liikluskindlustuse seadus*);
- claims where the debtor has issued an acknowledgement of obligation or where another agreement obligating performance has been entered into;
- claims arising from the community of apartment owners (*korteriomanike ühisus*) or administration of apartment ownerships, as well as any claims made by an apartment association (*korteriühistu*) against its members.

The expedited procedure for payment orders does not apply to collateral claims to the extent they exceed the main claim.

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

Yes. The expedited procedure for payment orders does not apply to claims exceeding EUR 6 400. This amount covers both principal and collateral claims.

1.1.3 Is the use of that procedure optional or obligatory?

Use of the expedited procedure for payment orders is optional. The creditor may decide whether to use the expedited procedure or to initiate ordinary proceedings.

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

Yes. There is no restriction in national legislation on the applicability of the expedited procedure for payment orders to defendants who live or are located in another country. Within the EU, the jurisdiction of the defendant is determined under Council Regulation (EC) No 44/2001 (Regulation (EU) No 1215/2012 of the European Parliament and of the Council).

1.2 Competent court

Applications for the expedited procedure for payment orders are dealt with by the payment order department at the Haapsalu courthouse of Pärnu County Court (*Pärnu Maakohtu Haapsalu kohtumaja*).

1.3 Formal requirements

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

The expedited procedure for payment orders is only available electronically and, as such, applications may only be filed with a court via the public e-File portal (*E-toimik*) or via the X-Road (*X-tee*) data exchange layer for information systems.

Applications can be submitted via the e-File website <https://www.e-toimik.ee/>

Under Section 485(2) of the Code of Civil Procedure, an objection may be submitted on the form attached to the proposal for payment, or in another format. The forms are also available on the website of the Ministry of Justice (*Justiitsministeerium*): <http://www.kohus.ee/23258>.

1.3.2 Is representation by a lawyer required?

No, it is not necessary to appoint a representative.

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

An application for the expedited procedure for payment orders should contain a short description of the circumstances constituting the basis for the claim and of the evidence the applicant would be able to submit in support of the claim. The claim must be based on facts and be supported by documentary evidence. A claim is clearly unfounded if, having regard to the circumstances presented in the application as the basis for the payment order, the claim cannot be legally satisfied.

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

It is not necessary to present written evidence to confirm the claim that has been filed. However, the application should contain a short description of the evidence the applicant would be able to submit in support of the claim.

1.4 Rejection of application

The court will reject an application for the expedited procedure for a payment order if:

1. the expedited procedure is not permitted for the payment order under the Code of Civil Procedure;
2. the application does not meet the requirements laid down in the Code of Civil Procedure;
3. it has not proven possible to serve the payment order on the debtor within a reasonable time and it cannot be served by public announcement and the applicant has explicitly asked for proceedings to be ended if an objection is filed;
4. it becomes evident that there are grounds for suspending the procedure.

1.5 Appeal

No appeal can be submitted against a ruling rejecting an application for a payment order. Rejection of an application does not restrict the right of the applicant to file a claim in an action or in an expedited procedure for a payment order.

1.6 Statement of opposition

The debtor may file an objection to a claim or a part thereof with the court that issued the payment order within 15 days of the payment order being served, or within 30 days if the payment order is served abroad.

An objection may be submitted using the form attached to the payment order or in another format. It is not necessary to set out the grounds for the objection.

1.7 Effect of statement of opposition

If the debtor submits an objection to the payment order in good time, the court that prepared the payment order will continue to hear the action or will refer it to the court named in the application for the expedited procedure for payment orders or to the court named in a joint application by the parties. In matters of apartment ownership or common ownership, proceedings on petition are continued unless the petitioner has requested actions to be conducted or proceedings to be terminated. An action is deemed to have been filed once the application for the expedited procedure for payment orders has been submitted.

If the applicant has explicitly asked for proceedings to be ended if an objection is filed, the proceedings will be ended.

If the debtor acknowledges in part the petitioner's claim in an objection filed against the payment order, the court hearing the matter will issue a payment order by way of a ruling to recover the amount acknowledged by the debtor and will continue to hear the remaining part of the case.

1.8 Effect of lack of statement of opposition

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

If the debtor fails to pay the amount indicated in the payment order and does not file an objection to the payment order in time, the court will issue a payment order by way of a ruling for the amount to be recovered.

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

The payment order includes an explanation for the debtor concerning the debtor's right to appeal against the ruling within 15 days, or within 30 days if the payment order is served abroad. An explanation is to be provided to the debtor that an appeal may be filed only on the basis of one of the following circumstances:

1. the payment order was served on the debtor in a manner other than personal delivery against a signature or electronically and, by no fault of the debtor, it was not served in time and therefore the debtor was unable to file an objection in time;
2. the debtor was unable to file an objection to the payment order for reasons beyond the debtor's control;
3. the requirements for the expedited procedure for payment orders were not met or the conditions of the expedited procedure for payment orders were materially violated in some other manner, or the claim to which the expedited procedure pertains is clearly unfounded.

A legal representative of a debtor or the universal successor of a debtor may file an appeal against a payment order within two months of becoming aware of it if it has become evident that there were grounds for suspension at the time the court decision was made, but the court was not and could not have been aware of them. The person filing the appeal against the ruling should do so on the basis of one of the above-mentioned circumstances.

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