

Small claims - Croatia

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1 Existence of a specific small claims procedure

In the Republic of Croatia small claims are governed by the provisions of Articles 457-467 of the Civil Procedure Act (*Zakon o parničnom postupku*) (Narodne Novine (NN; Official Gazette of the Republic of Croatia), Nos 53/91, 91/92, 112/99, 129/00, 88/01, 117/03, 88/05, 2/07, 96/08, 84/08, 123/08, 57/11, 25/13 and 89/14; hereinafter: ZPP), while the European small claims procedure under Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (hereinafter: Regulation No. 861/2007) is governed by the provisions of Articles 507.o - 507.ž ZPP.

1.1 Scope of procedure, threshold

Small claims procedures before local courts means a dispute in which the claim is for an amount of no more than HRK 10 000.

In procedures before commercial courts, small claims procedures are disputes in which the claim is for an amount of no more than HRK 50 000.

Small claims procedures also include those in which the claim does not concern money, but where the claimant has agreed instead to receive a sum of no more than HRK 10 000 (local courts) or HRK 50 000 (commercial courts) to satisfying the claim.

Small claims procedures also include those in which the subject of the claim is not money, but the delivery of movable property, the value of which, according to the claimant, does not exceed HRK 10 000 (local courts), i.e. HRK 50 000 (commercial courts).

Under current arrangements for European small claims procedures, Regulation No 861/2007) is applied if the value of the claim does not exceed EUR 2 000 at the time the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and fees.

1.2 Application of procedure

Small claims procedures are conducted before a local or commercial court under the rules on subject-matter jurisdiction provided for in Articles 34 and 34.b ZPP. Small claims procedures are started by submitting a claim to the competent court, i.e. by submitting an application for enforcement based on an authentic document to a notary public when an admissible objection to a writ of execution has been submitted in a timely fashion.

1.3 Forms

Forms, other claims or declarations are submitted in written form, by fax or email and are only used for European small claims procedures under Regulation No 861/2007

There are no other set forms to initiate an action in small claims procedures.

1.4 Assistance

The ZPP has no special provisions on legal aid in small claims procedures. A claimant may be represented by an attorney during a small claims procedure.

If the provisions of the Law on Free Legal Aid (*Zakon o besplatnoj pravnoj pomoći*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 143/13 – http://narodne-novine.nn.hr/clanci/sluzbeni/2013_12_143_3064.html) have been fulfilled, the litigants have the right to primary and secondary legal aid.

A list of authorised associations and legal clinics for providing primary legal aid can be found by clicking on the following link: <https://pravosudje.gov.hr/istaknute-teme/besplatna-pravna-pomoc/ovlastene-udruge-i-pravne-klinike-za-pruzanje-primarne-pravne-pomoci/6190>

1.5 Rules concerning the taking of evidence

In small claims procedures, the parties must present all the facts on which they base their claim no later than when submitting the action or defence statement, as well as to submit any evidence required to support the presented facts.

The parties may only present new facts or put forward new evidence at a preliminary hearing, if they, through no fault of their own, could not present or put them forward in the action or defence statement.

New facts and evidence presented or put forward by the parties at the preliminary hearing contrary to the provision mentioned above will be disregarded by the court.

The general provisions of ZPP apply to the taking of evidence. Evidence in small claims procedures may, therefore, consist of inspections, documents, witness statements, expert's reports ordered by a court, evidence given by the parties, and the Court decides which of the submitted evidence is used to establish the facts of the case.

More information on the taking of evidence is set out in the information package entitled "Taking of evidence – Republic of Croatia" (*Izvođenje dokaza – Republika Hrvatska*).

1.6 Written procedure

Small claims procedures are conducted in writing.

In small claims procedures the claim is always served on the defendant to enable that party to submit observations, and the court summons to provide a statement of defence will inform parties that a claimant is considered to have withdrawn the action if he or she fails to attend the first court appointment; that in this procedure parties must present all the facts no later than when submitting the claim or defence statement; that at the preliminary hearing no new facts may be presented or evidence put forward, except in the cases set out in Article 461a(3) ZPP where the parties were, through no fault of their own, prevented from presenting any facts or putting forward evidence before the start of the preliminary hearing; and that this decision may only be appealed on the grounds of material infringements of the provisions on the civil procedure referred to in Article 354(2), which are:

- point 1 - if a judge who had to be recused according to the law (Article 71(1) points 1-6 ZPP) or who was disqualified by a court ruling, or a person who did not have the status of a judge took part in giving the judgment,
- point 2 - if a decision was made on a claim in a dispute that does not come under judicial competence (Article 16 ZPP),
- point 4 - if, contrary to ZPP, the court based its decision on inadmissible dispositions by the parties (Article 3(3) ZPP),
- point 5 - if, contrary to ZPP, the court gave a judgment based on admission of the claim, a judgment based on waiver of the claim, default judgment or judgment without a trial,

- point 6 - if, because of unlawful actions, and specifically a failure of service (of court documents), any of the parties was not granted the opportunity to be heard by court;
- point 8 - if a person who cannot be a party to the procedure participated in it either as a plaintiff or as a defendant, or if the legal person was not represented as a party by the authorised person, or if an incapable party was not represented by a legal representative, or if the legal representative or attorney in fact did not have the requisite authorisation to litigate or take certain procedural actions, where litigation or certain procedural actions are not authorised subsequently;
- point 9 - if a decision was made about a claim in respect of which litigation was already pending, or about which a legally effective judgment has already been given, or if a court settlement or a settlement which, under separate regulations, has characteristics of a court settlement has already been reached,
- point 10 - if the public was excluded from the trial, contrary to the law,
- point 11 ZPP - if the judgment has defects because of which it cannot be examined, and particularly if the operative part of the judgment is incomprehensible, if the operative part is self-contradictory or if it contradicts the grounds for the judgment, or if the judgment has no grounds at all or if it does not specify the grounds for decisive facts, or if such grounds lack clarity or are contradictory, or if there is a contradiction regarding the decisive facts between what is specified in the grounds for the judgment about the contents of documents or minutes relating to testimonies given during the proceedings and the actual documents and minutes themselves;

or, in the case of an error in law.

If the party has temporary or permanent residence outside the Republic of Croatia and their address is known, the service of court documents shall take place in accordance with the rules binding on the Republic of Croatia and in accordance with EU legislation, specifically with regard to the procedure referred to in Article 13 Regulation No 861/2007.

1.7 Content of judgment

A judgment in a small claims procedure is given immediately after the end of the main hearing. On delivery of the judgment, the judge is obliged to instruct the present parties of the conditions under which they may appeal.

Since there are no special provisions on the content of the judgment in small claims procedures, the general provisions of the ZPP apply, i.e. Article 338 ZPP, which states that a written version of the judgment must contain a formal introduction, an operative part and a statement of grounds.

The introduction to a judgment shall contain: an indication that the judgment is being announced in the name of the Republic of Croatia; the title of the court; the name and surname of the single or presiding judge, judge-rapporteur and panel members, the name and surname or title and residence or registered office of the parties, their legal representatives and agents; a brief indication of the subject of dispute; the date on which the trial concluded; an indication of the parties, their legal representatives and agents who attended that trial; and the date when the judgment was given.

The operative part of the judgment shall contain the court's decision on the acceptance or rejection of specific claims on the merits and secondary claims, as well as a decision on existence or non-existence of the claim put forward for settlement (Article 333 of the ZPP).

In the statement of grounds the court outlines the parties' claim, the facts they presented and evidence on which these claims are based, which of these facts it established, why and how it established those facts, and if it established them by hearing evidence, which evidence was put forward and why and how it was assessed. The court specifically states which provisions of substantive law have been applied in the ruling on the parties' claims and state its position, if required, on the views of the parties on the legal grounds for the dispute and on any motions or objections about which it did not set out grounds in the decisions it made in the course of the proceedings.

The statement of grounds for a default judgment, judgment based on admission of a claim or judgment based on waiver of the claim shall only indicate the grounds for giving such judgments.

1.8 Reimbursement of costs

A decision on the reimbursement of costs for small claims procedures is issued on the grounds of the general provisions of ZPP, whereby the party that loses a case completely is obliged to reimburse the costs of the opposing party and his or her intervenor.

If a party is partially successful in his or her action, the court may, in the light of the success achieved, order each party to bear their own costs or for one party to reimburse the other and his or her intervenor a proportional share of the costs.

The court may decide that one party should pay all the costs incurred by the opposing party and his or her intervenor, if the opposing party did not succeed in only a relatively minor part of his or her claim and separate costs were not incurred for that part.

On the other hand, a party is obliged, regardless of the outcome of the case, to reimburse any costs of the opposing party resulting from his or her own fault or from events that he or she suffered.

1.9 Possibility to appeal

In small claims procedures, the parties may lodge an appeal against the first instance judgment or the decision, within eight days.

The deadline for the appeal is calculated from the day on which the judgment or decision was delivered. If the judgment or the decision was served on a party, the deadline is calculated from the day it was served.

The judgment or decision terminating the small claims procedure may be challenged on the grounds described in detail in point 1.6, i.e. due to a material infringement of the civil procedure rules referred to in points 1, 2, 4, 5, 6,8,9,10 and 11 of Article 354 (2) ZPP or due to an error of law.

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