

How to proceed? - Croatia

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1 Do I have to go to court or is there another alternative?

Parties may resolve a dispute in court, but there are also out-of-court methods of dispute resolution. In Croatia, such methods include arbitration, mediation and court actions in a broader sense aimed at achieving a court settlement.

Mediation in disputes arising from civil, commercial, labour-related and other disputes regarding rights the parties may freely exercise is governed by the Mediation Act (*Zakon o mirenju*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 18/11). Mediation (Latin *mediare* = mediation) means any procedure, regardless of the name used (*mirenje*, *medijacija*, *posredovanje*, *koncilijacija*) in which the parties strive to resolve their dispute by coming to a mutual agreement, i.e. by achieving a mutually acceptable agreement which is in line with their needs and interests, with the help of a neutral third party – one or more mediators (

posrednik, medijator, concilijator), who help the parties reach a settlement, without the power to impose a binding solution. Mediation is conducted in a manner agreed on by the parties; the procedure is characterised by being optional, by the autonomy of the parties in the procedure, voluntary and consensual, informal and confidential, and the equality of parties to proceedings.

On the other hand, arbitration (*arbitraža* or *izbrano suđenje*) is a trial held before an arbitration court, regardless of whether its work is provided by a legal person or the body of a legal person that organises and conducts the work of arbitration courts. Arbitration is a voluntary, quick, efficient, non-public manner of resolving disputes where parties may arrange who will act as judge if a dispute should arise, the place of arbitration, the applicable substantive and procedural law, the language(s) in which it will be conducted, and the decision of an arbitration court on the facts of the case has the force of a definitive court ruling.

The Civil Procedure Act (*Zakon o parničnom postupku*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 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) stipulates that a court may propose to parties at any time during civil proceeding that they resolve their dispute through a mediation procedure, whether court-annexed or out-of-court. Furthermore, at the preliminary hearing, the court proposes that the parties resolve the dispute in a mediation procedure, i.e. warn the parties of the possibility of a court settlement.

In certain cases (filing an action against the Republic of Croatia), the person intending to file such an action is obliged, prior to filing it, to contact the state's attorney's office which has territorial and subject-matter jurisdiction for representation before a court where an action against the Republic of Croatia will be filed, and request an amicable settlement of the dispute, except in cases in which specific regulations determine a deadline for filing an application. The request for an amicable settlement of a dispute must contain all the information required for a standard application to court.

2 Is there any time limit to bring a court action?

The time limit for bringing a court action depends on the type and legal nature of the action. For example, for judicial protection of employment-related rights there is a deadline of fifteen days within which the employee must file an application to the competent court in order to protect the violated right, after having submitted a request for the protection of their rights to their employer, except in the event of a claim for damages or another monetary claim arising from employment relationships.

3 Should I go to a court in this Member State?

Yes. In Croatia, in civil procedures, the courts rule within the limits of their subject-matter jurisdiction as defined by law, and judicial authority is exercised by ordinary and specialised courts and the Supreme Court of the Republic of Croatia.

The ordinary courts are municipal courts and country courts. The specialised courts are commercial courts (*trgovački sudovi*), administrative courts (*upravni sudovi*), criminal courts (*prekršajni sudovi*), the Supreme Administrative Court of the Republic of Croatia (*Visoki upravni sud Republike Hrvatske*) and the High Magistrates Court of the Republic of Croatia (*Visoki prekršajni sud Republike Hrvatske*).

Croatia's highest court is the Supreme Court of the Republic of Croatia (*Vrhovni sud Republike Hrvatske*).

The law may establish other ordinary and specialised courts according to their subject-matter jurisdiction or according to certain legal areas.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

The general rule states that the competent court is the court with general territorial jurisdiction for the defendant, i.e. the court covering the area where the defendant has his or her permanent residence. If the defendant does not have permanent residence in the Republic of Croatia, the court with general territorial jurisdiction is that covering the area where the defendant has his or her temporary residence.

If the defendant, in addition to permanent residence, also has temporary residence in any other place, and due to the circumstances it can be deduced that he/she will reside there for a longer period of time, the court in the place of temporary residence has general territorial jurisdiction.

For trials in disputes against a Croatian citizen permanently resident abroad where he/she was posted to work for a national authority or legal entity, the general territorial jurisdiction lies with the court covering his or her last known permanent residence in the Republic of Croatia.

In disputes with international elements, a court in the Republic of Croatia is competent for the trial when explicitly defined by law or international treaty. If the law or international treaty does not explicitly state that a Croatian court is competent for a specific type of dispute, then a Croatian court is competent for trial when this is derived from the legal provisions regarding the territorial jurisdiction of courts in Croatia.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

The aforementioned depends on the kind of dispute and the provisions of the ZPP which regulate matters of territorial and subject-matter jurisdiction.

The value of a subject of dispute is not a distinct criterion affecting territorial and subject-matter jurisdiction of courts in Croatia.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

According to the current organisation of the litigation process as set out by the ZPP, any party – natural or legal person – can freely choose whether they will represent themselves in the proceedings, or an intermediary, usually a lawyer, unless the ZPP state otherwise.

However, the provisions of Article 91 (ZPP) significantly limits parties' right to represent themselves: if, in disputes involving property claims, the amount in dispute exceeds HRK 50 000, agents for legal persons may only be persons who have passed the bar exam.

Furthermore, the provisions in Article 91 ZPP stipulate that parties may apply for a review via their representative, i.e. attorney, or, exceptionally, they may represent themselves, if they have passed a bar exam or if the request for review may be made on their behalf by a person who is authorised in accordance with the ZPP or any other legislation to represent in this capacity despite not being an attorney, but having passed the bar exam.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

Civil proceedings are initiated by filing an action before a competent court, directly in the registry office of court, by post or by wire.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

Civil proceedings are conducted in the Croatian language and with the use of Latin script unless the use of another language or script has been introduced in individual courts.

Parties and other participants in the proceedings file their actions, complaints and other submissions with the court in the Croatian language and the Latin script.

An action may be filed directly in the registry office of court, by mail or by wire (*telegrafski*), although it is most common to either file it directly the registry office or by post.

The Civil Procedure Act provides for the possibility of submitting documents for disputes electronically before commercial courts. Electronically submitted documents must be signed using advanced electronic signatures in accordance with special regulations. Since a unified IT system has yet to be implemented, these provisions are not yet applied in practice.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

Forms are only used for European small claims procedures. Further details on this are available in the leaflet entitled „[Small Claims – Republic of Croatia](#)“.

The Civil Procedure Act stipulates what the application should contain, as follows: a specific claim regarding the merits and incidental claims, the facts on which the applicant bases the claim, evidence to support these facts and other information which must be enclosed with every submission (Article 106 ZPP).

Each submission, including applications, must contain the following: the name of court, the name, occupation and permanent or temporary residence of the parties, their legal representatives and agents, if any, the personal identification number of the submitting party, the subject of dispute, and the submitting party's statement signature.

The party or his /her representative signs his or her names at the end of the submission.

If the statement contains a claim, the party must state in the submission the facts on which he/she bases his or her claim and the evidence, when necessary.

The court proceeds on the application even if the applicant has not stated the legal grounds for the application; even if the applicant has stated the legal grounds, the court is not bound by this.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Parties must pay the court fees regulated by the Court Fees Act (*Zakon o sudskim pristojbama*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 74/95, 57/96, 137/02, 125/11, 112/12, 157/13, 110/15; hereinafter: ZSP).

The court fees prescribed by the ZSP apply to persons at whose request or in whose interest certain actions prescribed by law are undertaken.

There are court fees, unless otherwise provided for by the ZSP, for:

- for submissions (applications, legal remedies, applications for enforcement, etc.): at the moment of submission; and for submissions put on record - when the record is completed,
- for submissions in defence: after the final termination of the proceedings for each party, proportionate to their success in the case.
- for court transcripts: when requested,
- for judicial decisions: when the party or their representative are served with a copy of the decision,
- for certificates of succession: when they become final,
- in forced settlement, bankruptcy and liquidation proceedings: on issue of a decision on the main division or issue of a decision approving forced settlement,
- for other actions: when they are requested or when the court is seised.

The general rule for paying the costs of litigation proceedings is that the party that loses the case in its entirety must cover the expenses of the opposing party and their intervener.

The costs of representation by attorneys, and attorneys' remuneration and reimbursement of costs is regulated by the Legal Profession Act (*Zakon o odvjetništvu*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 9/94, 117/08 translation, 50/09, 75/09 and 18/11; hereinafter ZO).

An attorney is entitled to a fee for legal services and to the reimbursement of any costs incurred in connection with the work done, according to the tariff established by the Bar Association and approved by the minister for justice, and attorneys issue an invoice to the client upon performance of service. In the case of cancellation or revocation of the power of attorney, the attorney issues an invoice within 30 days of the day the power of attorney was cancelled or revoked.

In property-law matters attorneys may arrange remuneration for their work with their party commensurate with their success in the proceedings, i.e. in the legal actions that they undertake on behalf of the party, in accordance with the official tariff. Such a contract is valid only if it has been concluded in written form.

Therefore, in property law matters, parties may regulate their relationship with their attorney in a written contract.

11 Can I claim legal aid?

If a party requires professional legal aid, they may turn to attorneys for legal advice, who are, in accordance with Article 3 ZO, are authorised in Croatia to provide all forms of legal aid, especially in terms of providing legal advice, preparing actions, complaints, motions, requests, applications, extraordinary legal remedies and other pleadings as well as to represent parties.

Furthermore, parties have the possibility of making use of free legal aid. That is to say, the Free Legal Aid Act (*Zakon o besplatnoj pravnoj pomoći*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), No 143/2013) provides for the possibility of granting free legal aid to citizens who are unable to obtain legal aid themselves, but are in need of it. In order to be granted the right to free legal aid, it is, therefore, necessary for the party to contact the competent state administration office in their county and to submit a request for granting free legal aid.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

A civil procedure is instituted by filing an action and has been brought by serving the action on the defendant.

After an action has been received, preparations for trial are made.

These preparations include, *inter alia*, preliminary examination of the action and the court, if the action is not comprehensible or if it does not contain everything necessary to act on it, orders the submitting party to correct the submission, i.e. to amend it in accordance with the provided instructions and will return it for the purposes of correction or amendment.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

The parties, their attorneys and representatives are informed about the progress of the case by the official of the clerk's office on the grounds of the information in the register and the file.

The information is limited to data regarding the stage of the proceedings and single judges, presidents of the chamber, council members and legal secretaries which are hearing the case.

When providing information, it is prohibited to make statements on the correctness of individual court actions, as well as on the likely outcome of the proceedings.

Information can be given by telephone, e-mail and in written form.

The parties may, via the internet, gain access to information regarding the progress of the proceedings and single judges, presidents of the chamber, council members and legal secretaries which are hearing the case, if the service Public Access to Basic Information on Court Cases / e-Case (*Javni pristup osnovnim podacima o sudskim predmetima - usluga e-Predmet*) is in use for the case at hand.

Deadlines for appearing before the court and other steps taken by the parties or the court are prescribed by the ZPP.

Further information on the deadlines and the types of deadlines is available in the information package entitled „[Procedural time limits – Republic of Croatia](#)“.

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