



Romania

European payment order - Romania

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Article 29(1)(a) - Courts with jurisdiction

The court with jurisdiction to issue a European Payment Order is the court with jurisdiction for hearing the case at first instance:

- the district court (which has jurisdiction to hear at first instance claims for a specific amount of money up to and including RON 200 000) or
- the tribunal (which has jurisdiction to hear at first instance all applications which are not by law within the jurisdiction of other courts, thus including claims for a specific amount of money in excess of RON 200 000) — Article 94 (1), point 1(j), and Article 95, point 1, of the new Code of Civil Procedure (regarding payment orders, see Article 1015 of the new Code of Civil Procedure, which provides that the creditor may submit a payment-order request to the court competent to address the substance of the case at first instance).

Article 29(1)(b) - Review procedure

- procedure under ordinary law:

- final decisions may be contested by way of an extraordinary appeal seeking annulment where the appellant was not duly summoned and was not present at the proceedings; such an appeal seeking annulment may be lodged within 15 days of the date of notification of the decision, but no later than one year after the date when the decision became final; the grounds for the appeal must be set out within the 15 days referred to above — otherwise it will be null and void (Articles 503(1) and 506 of the new Code of Civil Procedure);
- an extraordinary appeal for review of a decision made on, or referring to, the substance of the case may be requested if the party concerned was prevented, by circumstances beyond his or her control, from appearing at the proceedings and informing the court accordingly; where such circumstances apply, decisions that do not refer to the substance of the case are also subject to review; the time allowed for requesting a review is 15 days, counting from when the preventing circumstances end (Article 509(1), point 9, and (2), and Article 511(2) of the new Code of Civil Procedure);
- a party missing a procedural deadline will be granted a new time limit only if he or she proves that the delay arose owing to duly substantiated reasons; to this end, the party must complete the requisite procedural document no later than 15 days after the preventing circumstances ended, requesting that it be granted a new time limit; in the case of appeals procedures, this time limit is the same as the usual time limit allowed for lodging an appeal; an application to be granted a new time limit will be decided on by the court competent to decide on applications regarding rights not exercised in time (Article 186) of the new Code of Civil Procedure).

- special payment order procedure:

- the new Code of Civil Procedure (Articles 1013 to 1024) establishes a particular procedure for payment orders;
- a debtor may lodge an application for annulment of a payment order within 10 days of its being served or notified (Article 1023(1) of the new Code of Civil Procedure);

- a creditor may, within 10 days (Article 1023(2) of the new Code of Civil Procedure), submit an application for annulment of a ruling provided for in Article 1020(1) and (2) [1] of the new Code of Civil Procedure, or of a payment order provided for in Article 1021(2) [2];

- an application for annulment will be processed by the court which issued the payment order, represented by a panel of two judges (Article 1023(4) of the new Code of Civil Procedure);

- where the court judging the case admits the application for annulment in full or in part, it will annul the order in full or in part, as applicable, and will issue a final decision; where the court judging the case admits the application for annulment, it will issue a final decision imposing the payment order; a decision dismissing an application for annulment will be final (Article 1023(6) first sentence, (7) and (8) of the new Code of Civil Procedure);

- the party concerned may lodge an appeal against the enforcement of the payment order, in accordance with ordinary law; the appeal may only refer to irregularities in the enforcement procedure or grounds for extinguishing the obligation which have occurred after the payment order became final (Article 1024(2) of the new Code of Civil Procedure).

[1] Under Article 1020 of the new Code of Civil Procedure:

'Article 1020 Challenging the claim

(1) Where the debtor challenges the claim, the court shall check whether the challenge is justified, on the basis of the documents in the case file and the explanations and clarifications provided by the parties. If the debtor's defence is justified, the court shall dismiss the creditor's request by issuing a decision.

(2) Where the substantive defence presented by the debtor involves the processing of evidence other than that referred to in paragraph (1) and that evidence would be admissible in ordinary law proceedings, in accordance with the law, the court shall dismiss the creditor's request for a payment order by issuing a decision.

(3) In the cases referred to in paragraphs (1) and (2), the creditor may submit an application to lodge legal proceedings under ordinary law.'

[2] Under Article 1021(2) of the new Code of Civil Procedure: 'Where the court, having examined the case evidence, finds that the creditor's claims are justified only in part, it shall issue a payment order only for that part and shall also indicate the payment deadline. In such cases, the creditor may submit an application to lodge legal proceedings under ordinary law, with a view to having an obligation imposed on the debtor to pay the remainder of the debt.'

Article 29(1)(c) - Means of communication

- procedure under ordinary law

- Delivery/communication of writs of summons and other procedural documents must comply with Articles 153 to 173 of the new Code of Civil Procedure. Set out below are some examples of how delivery/communication takes place:

- writs of summons and all procedural documents are delivered *ex officio* by procedural agents of the court concerned or any other of its employees, as well as by agents or employees of other courts in whose jurisdiction the addressee of the document to be served resides (Article 154(1) of the new Code of Civil Procedure);

- if documents cannot be delivered in the manner set out above, they are sent by post, by registered letter with declaration of content and acknowledgement of receipt, in a sealed envelope to which are affixed a proof of receipt/record of delivery form and the notice provided for by law (Article 154(4) of the new Code of Civil Procedure);

- at the request and sole expense of the interested party, procedural documents can be delivered directly either by bailiffs, who are required to comply with the formalities laid down by procedural law, or by express delivery services (Art. 154(5) of the new Code of Civil Procedure);

- writs of summons and other procedural documents can be communicated by the court registry by telefax, e-mail or other means capable of transmitting the text of the document and ensuring confirmation of receipt, where the party concerned has provided the court with the details necessary for this purpose; for the purpose of confirmation, the court will enclose with the procedural document a form stating: the name of the court, the date of communication, the name of the registrar handling communication, and the documents communicated; the form has to be completed by the addressee, who must state the date of receipt and provide the name and signature of the person responsible for receiving correspondence; it must then be returned to the court by fax, e-mail or other suitable means (Article 154(6) of the new Code of Civil Procedure).

- special payment order procedure:

- the order must be served to the party present or be notified to each party without delay, in accordance with the law (Article 1021 (5) of the new Code of Civil Procedure).

Article 29(1)(d) - Accepted languages

Applications must be completed in Romanian.

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