

1 Existence of an order for payment procedure

The Republic of Croatia applies the European order for payment, and the procedure for issuing such orders is governed by the provisions 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, 89/14, 70/19, 114/22 and 155/23) and the Rules on the manner of lodging an application for the issuing of a European order for payment and a statement of opposition against a European order for payment (*Pravilnik o načinu podnošenja zahtjeva za izdavanje europskog platnog naloga i prigovora protiv europskog platnog naloga*) (NN No 124/13).

1.1 Scope of procedure

The European order for payment procedure applies to the collection of pecuniary claims for a specific amount that have fallen due at the time when the application for a European order for payment is submitted. A European order for payment procedure was created by means of Regulation (EC) No 1896 /2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, and that Regulation applies in cross-border civil and commercial legal matters, irrespective of the type of court, with the derogations provided in the Regulation.

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

Claims that relate to claims on money (pecuniary claims). Only claims that are contractual or non-contractual liabilities and that have been nominally determined may form the subject of a claim.

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

There is no upper limit to the value of the claim.

1.1.3 Is the use of that procedure optional or obligatory?

The use of the procedure is not obligatory because the applicant (claimant) is free to decide on the manner in which they will make their claim, as long as it does not contradict the mandatory rules and the rules on public morality. The payment order will be issued by the court even if the applicant did not suggest the issuing of a payment order in their claim, if all the requirements for issuing an order have been met. Therefore, the issuing of the payment order is mandatory for the court if the requirements for issuing it have been met.

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

Yes.

1.2 Competent court

The decision on applications to issue and review — and to provide a certificate of enforceability for — the European order for payment pursuant to Regulation (EC) No 1896/2006 lies with the municipal court (*općinski sud*), or commercial court (*trgovački sud*) in cases concerning matters under the jurisdiction of commercial courts, according to the place of residence or usual place of residence or registered office of the defendant.

1.3 Formal requirements

The application for a European order for payment and the statement of opposition to the order are to be submitted solely in machine-readable form if the court deems that these acts are suitable for machine processing. The application form may be submitted in paper form or by any other means of communication accepted by the court.

The manner of submitting applications for the European order for payment and the statement of opposition against that order are governed by the Rules on the manner of lodging an application for the issuing of a European order for payment and a statement of opposition against a European order for payment, which entered into force on 17 October 2013.

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

The application for issuing a European order for payment and the statement of opposition against the order are to be submitted on the forms prescribed by Regulation (EC) No 1896/2006 to the competent court. This means that the use of a standardised form in the procedure for issuing a European order for payment is obligatory, and the forms can be downloaded from the website of the e-Justice portal (https://e-justice.europa.eu/156/EN/european_payment_order_forms?init=true).

1.3.2 Is representation by a lawyer required?

Any party – natural or legal person – is authorised to freely choose whether they will represent themselves in the proceedings, or will engage an intermediary, who is usually a lawyer. This means that representation by a lawyer is not obligatory in the procedure of issuing a European order for payment.

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

The party must complete form A (application for a European order for payment) in machine-readable form, which allows the party to provide additional statements and further information to explain the claim in more detail if necessary.

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

Point 10 of form A provides for the party to attach evidence available to them and to describe what the specific evidence refers to. Evidence and the taking down of evidence are governed by Articles 219-271 of the Civil Procedure Act, and the court decides which of the evidence submitted is to be used to establish the facts of the case. Furthermore, the court decides, acting according to its own convictions, which facts are deemed to have been proved, based on a thorough and careful appraisal of each item of evidence separately and of all the evidence together, and on the result of the proceedings as a whole.

1.4 Rejection of application

The general rule laid down in Article 109 of the Civil Procedure Act is applied to the rejection of applications. This article states that if the application is not comprehensible or does not contain everything necessary to act on it, the court will order the submitting party to correct the submission, i.e. to amend it in accordance with the instructions provided, and will return it for the purposes of correction or amendment. The submission is to be deemed withdrawn if it is not returned to the court and corrected in line with the instructions received from the court within the time limit provided. If it is returned without any correction or amendment, it will be dismissed.

1.5 Appeal

A statement of opposition is the legal remedy available to the defendant when an application for a European order for payment has been lodged. In addition, the parties have the option to review the European order for payment in exceptional cases pursuant to Article 20 of Regulation (EC) No 1896/2006, subject to the conditions laid down therein.

1.6 Statement of opposition

The defendant may lodge a statement of opposition to the European order for payment with the court of origin using standard form F, which is supplied to them together with the European order for payment. The statement of opposition is to be sent within 30 days of service of the order on the defendant, and the defendant is to indicate in the statement of opposition that they contest the claim, without having to specify the reasons for this.

1.7 Effect of statement of opposition

If the defendant lodges a statement of opposition against the European order for payment within the meaning of Article 16 of Regulation (EC) No 1896/2006, the further procedure will be carried out in accordance with the rules of the European Small Claims Procedure laid down in Regulation (EC) No 861/2007, if applicable and, if not, in accordance with the provisions of the Civil Procedure Act on statements of opposition against orders for payment (Article 445a, Articles 451-456), while taking into account Article 17 of Regulation (EC) No 1896/2006.

1.8 Effect of lack of statement of opposition

If no statement of opposition has been lodged with the court within 30 days of the order for payment being served on the defendant, taking into consideration an appropriate period for the receipt of the statement of opposition, the court is to declare the enforceability of the European order for payment using the standard form G.

An enforceable European order for payment (Articles 18 and 19 of Regulation (EC) No 1896/2006), issued by a court in the territory of the European Union, is an enforcement instrument that can be used to seek enforcement in the Republic of Croatia in the same manner as on the basis of an enforcement decision by a Croatian court.

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

As a rule, the applicant must request that the court issue an enforceability clause, and the court declares the enforceability of the European order for payment using the standard form G.

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

The defendant may request a review of a European order for payment issued in Croatia on the basis of Article 507n of the Civil Procedure Act, taking into account Article 20 of Regulation (EC) No 1896/2006. The court deciding on the request may postpone the enforcement by applying the appropriate rules of the enforcement proceedings regarding postponement of enforcement at the debtor's request. An appeal against a writ of execution for reasons relating to the claim laid down in the European order for payment is permitted only if these reasons occurred after the order was served and if they could no longer be presented in the statement of opposition pursuant to Article 16 of Regulation (EC) No 1896/2006.

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