

“Order for payment” procedures - Croatia

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1 Existence of an order for payment procedure

The Republic of Croatia applies the European order for payment, and the procedure of 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 and 89/14; hereinafter: ZPP) 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 procedure for issuing a European order for payment is applied for the collection of pecuniary claims the amount of which is fixed, and which were due at the moment the application for the European order for payment was lodged. Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 (hereinafter: Regulation (EC) No 1896/2006) created a European order for payment procedure, and the said Regulation applies in cross-border civil and commercial legal matters, irrespective of the type of court, with the derogations provided by 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). The subject-matter of the claim may only be claims which constitute contractual or non-contractual obligations and which are nominally determined.

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 claimant is free to decide on the manner in which he or she 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 though the claimant did not suggest the issuing of a payment order in their claim, if all the requirements for the issuing thereof have been met. Therefore, the issuing of the payment order is mandatory for the court if the requirements for the issuing thereof 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 exclusively with the Commercial Court in Zagreb (*Trgovački sud u Zagrebu*).

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 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 (*Pravilnik o načinu podnošenja zahtjeva za izdavanje europskog platnog naloga i prigovora protiv europskog platnog naloga*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia), Nos 124 /13; hereinafter: Rules), 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 No 1896/2006 to the competent court in paper form in person or by post. Therefore, 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 internet site of the Commercial Court in Zagreb (<http://sudovi.pravosudje.hr/tszag/>).

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 hire an intermediary, who is usually a lawyer, unless the provisions of the ZPP state otherwise. Therefore, 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 is obliged to fill out form A (Application for the European order for payment) in a machine-readable form. Point 6 of said form offers a choice of legal grounds which will make it clear to what the claim refers.

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 thereof are governed by the provisions of Articles 219 - 271 of ZPP, and the court decides which of the evidence presented is to be taken in order to find and appraise the relevant facts. Furthermore, the court decides, at its discretion, which facts it will find proved, after conscientious and careful assessment of all the evidence, both individually and as a whole, and taking into consideration the results of the entire proceedings.

More information on the evidence and the taking thereof is provided in the information package entitled "Taking evidence - Republic of Croatia" (*Izvođenje dokaza - Republika Hrvatska*).

1.4 Rejection of application

The general rule of Article 109 of ZPP 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, and if it is returned without any correction or amendment, it will be dismissed.

1.5 Appeal

A statement of opposition is the only legal remedy available to the defendant when an application for a European order for payment has been lodged. The request for a review of the European order for payment in accordance with Article 20(1) or (2) of Regulation (EC) No 1896/2006 is decided by order, against which no appeal lies. An appeal against the 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 No 1896/2006.

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 him 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 he contests 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 No 1896/2006, the further procedure will be carried out in accordance with the provisions of the ZPP on the procedure in the event of a statement of opposition against a payment order (Articles 445a and 451-456 of ZPP), while taking into account the provisions of Article 17 of Regulation (EC) No 1896/2006.

1.8 Effect of lack of statement of opposition

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

An enforceable European Payment Order (Articles 18 and 19 of Regulation No 1896/2006), issued by a court in the Republic of Croatia, is an enforcement order on the grounds of which, in the Republic of Croatia, enforcement may be sought in the same manner as on the grounds of an enforceable decision of a Croatian court.

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

As a rule, the claimant must explicitly request the court to issue a certificate of enforceability, and the court declares the enforceability of the European order for payment by 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 the European order for payment on the grounds of the provisions of Article 507n of ZPP, while taking into consideration the grounds of Article 20 of Regulation (EC) No 1896/2006, and the court deciding on the request may postpone the enforcement by applying the appropriate provisions of the Enforcement Act regarding the postponement of the enforcement at the debtor's request.

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