

“Order for payment” procedures - Latvia

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1 Existence of an order for payment procedure

In Latvia there are two possibilities: the undisputed enforcement of obligations (*saistību bezstrīdus piespiedu izpildīšana*, Chapter 50, Sections 400–406 of the Law on Civil Procedure) and the enforcement of obligations on court notice (*saistību piespiedu izpildīšana brīdinājuma kārtībā*, Chapter 50.¹, Sections 406.¹–406.¹⁰ of the Law on Civil Procedure).

1.1 Scope of procedure

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

The undisputed enforcement of obligations is permitted:

1. pursuant to agreements regarding obligations that are secured with a public mortgage or a commercial pledge;
2. pursuant to notarially certified fixedterm agreements or fixedterm agreements of equivalent legal effect for the payment of money or for the return of movable property;

3. pursuant to fixed term agreements for the lease or rental of property which are notarially certified or entered in a land register and which provide that the lessee or tenant has a duty, upon the expiry of the term, to vacate or deliver the leased or rented property (except an apartment) and to pay the lease or rental payments;
4. pursuant to a protested promissory note.

The above obligations are not subject to undisputed enforcement if:

1. such enforcement is directed against State-owned property;
2. the obligation has been extinguished by prescription, the lapse of which is unequivocally manifest from the document itself.

Enforcement of obligations on court notice is permitted in respect of payment obligations which are evidenced by a document and for which the term for enforcement is due, and in respect of obligations for the payment of compensation which is provided for in a contract for the supply of goods, purchase of goods or provision of services, if such obligations are evidenced by a document and a time limit for enforcement has not been specified.

Enforcement of obligations on court notice is not permitted:

1. for payment for an unperformed obligation;
2. if the declared place of residence or de facto place of residence of the debtor is not known;
3. if the declared place of residence, de facto place of residence or registered office of the debtor is not in Latvia;
4. if the requested penalty exceeds the amount of the principal debt;
5. if the requested interest exceeds the amount of the principal debt.
6. for payment obligations, if the amount of the debt exceeds EUR 15 000.

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

No.

1.1.3 Is the use of that procedure optional or obligatory?

The use of the procedures is not obligatory.

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

Enforcement of obligations on court notice is not permitted if the debtor's declared place of residence, de facto place of residence or registered office is not located in Latvia.

Undisputed enforcement of obligations is available if an application is made on the basis of documents pledging immovable property, or of an obligation to vacate or return leased or rented immovable property, if the immovable property is located in Latvia. An application for undisputed enforcement based on a ship mortgage obligation may be submitted in Latvia if the mortgage is registered in Latvia.

1.2 Competent court

An application for undisputed enforcement of obligations is submitted to the land registry office of the district or city court (*rajona (pilsētas) tiesa*):

1. of the declared place of residence of the debtor, or failing that the debtor's de facto place of residence, if the application concerns obligations for the payment of money or for the return of movable property, or obligations imposed by contracts that are secured with a commercial pledge;
2. of the place where the immovable property is situated, if the application is made pursuant to documents pledging immovable property or to an obligation to vacate or return leased or rented immovable property; if an the obligation is secured against several immovable properties, and the applications would fall within the jurisdiction of the land registry offices of different district or city courts, the application is to be adjudicated by the land registry office of the district or city court of the place where one immovable property is situated, at the choice of the applicant;
3. of the place where the ship mortgage obligation is registered, if the application is based on a ship mortgage obligation.

An application for enforcement of obligations on court notice is submitted to the land registry office of the district or city court of the place of residence of the debtor, or failing that the debtor's de facto place of residence or registered office.

1.3 Formal requirements

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

An application for enforcement of obligations on court notice should be set out in conformity with Annex 1 of Cabinet Regulation No 792 of 21 July 2009 on templates to be used for the enforcement of obligations on court notice.

On the Latvian courts portal <http://www.tiesas.lv/>, under *E-Pakalpojumi* ('e-services'), *E-veidlapas* ('e-forms'), there is a template for an application for undisputed enforcement of obligations (*pieteikums par strīdu bezstrīdus piespiedu izpildīšanu*). The template may be downloaded and filled out and submitted in printed form.

1.3.2 Is representation by a lawyer required?

No, this is not obligatory. The general rules on representation are laid down in Chapter 12 of the Civil Procedure Law.

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

The reasoning of an application does not need to be detailed.

An application for undisputed enforcement of obligations must state the obligation and the document which the creditor wants enforced, indicating the principal debt to be recovered and any penalties and interest, and in the case of a promissory note the expenses associated with protesting the note and the compensation laid down by law. The following must be appended to the application: the document to be enforced, and a true copy thereof, or in the case of a promissory note the document protesting it, a document showing that the State fee (*valsts nodeva*) has been paid, and evidence that a warning has been given, unless it follows from the law that no such warning is required.

An application for enforcement of obligations on court notice is submitted by filling out a standard template giving details of the applicant and the debtor, the payment obligation, the documents substantiating the obligation and the timelimit for performance of the obligation, the amount requested and the manner of calculation, a statement by the applicant certifying that the claim is not dependent on a counterobligation or that any counterobligation has been performed, a request to the court asking it to give notice to the debtor and to order the enforcement of the payment obligation and the recovery of court costs, and a statement certifying that the court has received true information on the facts and that the applicant is aware that the Criminal Law makes it an offence to submit a false application.

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

The following must be appended to an application for undisputed enforcement of obligations: the document to be enforced, and a true copy thereof, or in the case of a promissory note the document protesting it, a document showing that the State fee has been paid, and evidence that a warning has been given, unless it follows from the law that no such warning is required (the evidence that a warning has been given may be a statement drawn up by a certified bailiff or his or her assistant declaring that the addressee has refused to accept the warning).

For the enforcement of obligations on court notice, no written evidence of the claim needs to be submitted, but the application must identify the documents substantiating the obligation and the timelimit for performance of the obligation. If the debtor contests the validity of the payment obligation within 14 days of receipt of the notice sent by the court, the court proceedings for the enforcement of obligations on court notice are terminated. The decision to terminate the proceedings upon objection by the debtor does not prevent the creditor from bringing an ordinary court action on the claim.

1.4 Rejection of application

On an application for undisputed enforcement of obligations, a judge, sitting alone, takes a decision within seven days of the day the application is submitted, on the basis of the application and the documents attached to it, without giving prior notice to the applicant and the debtor. The judge will dismiss the application if it is unfounded, or the penalty indicated in the application is disproportionate to the principal debt, or the document to be enforced contains unfair contractual provisions that violate consumer rights.

In the case of the enforcement of obligations on court notice, if the court accepts the application but within 14 days of receiving the notice sent by the court the debtor submits a statement of opposition contesting the validity of the payment obligation or shows that the debt has been paid, the judge will terminate the proceedings.

1.5 Appeal

A judge's decision on an application for undisputed enforcement of obligations or enforcement of obligations on court notice is not open to challenge.

1.6 Statement of opposition

On an application for undisputed enforcement of obligations, a judge takes a decision sitting alone, and the debtor's opinion is not taken into account.

On an application for enforcement of obligations on court notice, a judge gives notice to the debtor proposing that the debtor pay the amount indicated in the application or submit a statement of opposition to the court within 14 days of receiving the notice.

1.7 Effect of statement of opposition

On an application for the enforcement of obligations on court notice, if the debtor submits a statement of opposition contesting the validity of the payment obligation within 14 days of service of the notice, the court proceedings regarding the enforcement of obligations on court notice will be terminated. If the debtor accepts part of the application, the applicant will be notified of the debtor's answer and a timelimit laid down within which the applicant is to notify the court whether the part of the obligation whose enforcement is accepted has been handed over. If the applicant does not agree to the enforcement of part of the obligation, or does not answer within the time specified in the notification, the court proceedings will be terminated.

1.8 Effect of lack of statement of opposition

On an application for the enforcement of obligations on court notice, if the debtor fails to submit a statement of opposition within the time specified in the notice, the judge will take a decision, within seven days from the date of expiry of the time allowed for a statement of opposition, ordering the enforcement of the payment obligation specified in the application and the recovery of court costs.

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

Enforcement of obligations on court notice: the judge's decision on the enforcement of the payment obligation indicated in the application takes effect at once; it is an enforceable document that can be enforced in accordance with the rules on the enforcement of judgments.

Undisputed enforcement of obligations: the judge, having examined the validity of the application and having found that it should be accepted, takes a decision determining which obligation is to be enforced and how far. The judge's decision takes effect at once; it is an enforceable document that can be enforced in accordance with the rules on the enforcement of judgments. The judge's decision is lodged for enforcement together with a true copy of the document being enforced.

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

A judge's decision on an application for undisputed enforcement of obligations or for enforcement of obligations on court notice is not open to challenge; however, if the debtor is of the opinion that the applicant's claim is, on the merits, unfounded, he or she may bring an action against the creditor to dispute the claim (in the case of undisputed enforcement of obligations, within six months from the date when the true copy of the judge's decision is sent, and in the case of enforcement of obligations on court notice, within three months from the date when the true copy of the decision is sent). When the debtor brings such an action he or she may request a stay of the enforcement of obligations; if the creditor has already received satisfaction through the enforcement process, the debtor may apply to have his or her claim secured. The action is to be brought in accordance with the procedures prescribed by the Law on Civil Procedure before the court that considered the earlier application for undisputed enforcement of obligations or enforcement of obligations on court notice. But if the claim falls under the jurisdiction of a regional court, it should be brought before the regional court with jurisdiction for the division of the land register of the district or city court that considered the earlier application.

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