

NATIONAL REPORT

- FINLAND -



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GENERAL OVERVIEW

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| National Legal system | The present Code of Judicial Procedure dates from 1734. Obviously it has been amended numerous, in practice uncountable times since then. However, the governing principle of civil procedure has been and is still that the plaintiff in a civil case shall prove the facts that support his or her action. If the defendant presents a fact in his or her favor, also he or she shall prove it. After having carefully evaluated all the facts that have been presented, the court decides what is to be regarded as the truth in the case. Regarding undisputed monetary claims the court may, if a defendant who has been exhorted to respond to the claim has not done so before the set deadline, uphold the action in accordance with the claim by a judgment in default. In 1993 the aforementioned system replaced previous legislation on a payment order procedure. |
| Court jurisdiction and different types of litigation for debt collection | The general courts of law are the District Court as the court of first instance, Court of Appeal as the appellate court and the Supreme Court as the highest appellate court. The courts have general jurisdiction in respect of civil and criminal matters. |

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| National summary procedures for recovery of money claims | The simplified procedure for recovery of undisputed monetary claims has been explained above. There are no set limits for the recoverable sum within the simplified procedure. |
| State of IT operational options in judicial procedures for recovery of money claims | Actions on monetary claims may be lodged electronically. All courts have official e-mail addresses, which can be found on the contact information internet pages of the court. A message sent to an official address will be auto-replied in acknowledgement of receipt. Professional debt collection agencies may on application to the Ministry of Justice be granted permission to deliver the information in an application for a summons concerning an undisputed claim by way of a special, machine code message exchange system operating over the Internet. Also ordinary plaintiffs may file an application for a summons concerning an uncontested monetary claim with the district court through the Internet. A standardized form is available in Internet. |

SCOPE OF THE PROCEDURE

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| Eligible claims | The simplified procedure is applicable only in respect of undisputed claims concerning debts of a specific sum, restoration of possession or a disrupted circumstance, or eviction. The key to the simplified procedure is the claim being undisputed. |
| Limit regarding value of claim | There are no set amount limits regarding the simplified procedure for undisputed debts of a specific sum. |
| Rules on using the procedure | The procedure is optional, but the claimant has financial (reduced fees) as well as in practice timely benefits from using the simplified procedure. |
| Possibility of using national procedure in cross border cases | The national procedure is equally applicable in cross border cases. |
| Number of steps | If the claim is not contested, there is only one step. |
| Rules on representation by a lawyer | Not mandatory. |

COMPETENT COURTS

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| According to matter | The competent court is the District Court. |
| According to territory | A claim against a natural person is considered by the District Court with jurisdiction for the place where he or she has his or her domicile or habitual residence. A claim against a corporation, association, foundation or other legal entity under private law or against a legal entity under public law other than the State or a municipality is considered by the District Court with jurisdiction for the place where the legal entity is registered or where the administration of the legal entity is primarily conducted. A case that concerns the operation of a defendant branch, department, agency or other such place of business of a legal entity or of the place of business of an independent entrepreneur may also be considered by the District Court with jurisdiction for the place where the business is located. If otherwise no court would have jurisdiction in the case, a case that concerns a claim to be brought against a natural person may be considered by the District Court with jurisdiction for the place where the defendant resides or last had his or her domicile or habitual residence; a case that concerns ordering the defendant to pay a specified amount of money may be considered by the District Court with jurisdiction for the place where the defendant has distrainable property; a case that concerns a right to movable property may be considered by the District Court with jurisdiction for the place where the property lies. However, the EU Payment Order and Small Claims Procedures are centralized to Helsinki District Court. |

APPLICATION FOR AN ORDER FOR PAYMENT - FORMAL REQUIREMENTS

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| Availability of standardized form and form description | Yes, there is a standard form. The form is available on the Internet at: https://asiointi.oikeus.fi/web/asiointi/karajaoikeus . |
| Rules on representation by a lawyer | Not mandatory. |
| Description of the reasons for the claim | Only a brief description of the circumstances on which the claim is immediately based need to be included in the application for a summons. Evidence need not to be included. Generally, these applications do not exceed a sheet of A4 in length. |
| Need for written evidence and documents admissible as proof | No evidence is required. |
| Option of electronically filing the form | Possible - reduces court fees. |

ISSUE OF THE ORDER OF PAYMENT

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| Specific rules for dealing with submitted apps for order of payment and court decision | <p>The application for a summons shall contain certain information. It shall indicate the specified claim of the plaintiff, the circumstances on which the claim is immediately based, the evidence that the plaintiff intends to present and what he or she intends to prove with each piece of evidence, the claim for compensation of legal costs, if the plaintiff deems this necessary, and the basis for jurisdiction of the court, unless jurisdiction can be inferred from the application for a summons or the documents enclosed to it. The application shall also contain relevant contact information of the parties to the proceedings. However, if the case relates to a debt of a specific sum and the plaintiff states that the matter is undisputed, only a brief description of the circumstances on which the claim is immediately based need to be included in the application for a summons. Evidence need not to be included.</p> |
| Decision of the court on the payment order | <p>The application for a summons is served on the defendant by the court ex officio. In the summons the defendant is required to respond to the claim in writing. However, as is stated in the summons, the defendant need not to respond to the claim if he or she finds the claims correct. If the claim is undisputed, the defendant needs only to return the acknowledgement of service. Once the set time limit for the response expires, the court issues a default judgment in favor of the plaintiff. A judgment in default can not be issued, unless verifiable service of the summons has been affected on the defendant.</p> |
| Existence of guidelines for submitting application | <p>There are instructions available on the internet.</p> |

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| Defendant's service of the order of payment | <p>The application for a summons is served on the defendant by the court ex officio. Service of summonses are usually done by post. The summons may be sent either to the post office, to be signed for as received, or directly to the recipient, in which event the certificate of receipt contained in the envelope must be returned to the district court. With the consent of the recipient, service may also be affected electronically. In that case, the recipient is notified that the document can be retrieved on a server indicated by the district court. If it is likely that postal service will not be successful, the process servers of the district court deliver the notice to the recipient in person. When the claim is undisputed, the service of summons may also be affected by telephone. If the defendant is abroad, service will be effected in accordance with the Service of Documents Regulation or the Hague Convention on Service of Judicial and Extrajudicial Documents.</p> |
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REJECTION OF THE APPLICATION

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| Grounds for rejecting application | The court considers the application for a summons on the merits only on a very general level. However, if the application is so incomplete, that it can not constitute a basis for a judgment in default and the plaintiff fails to supplement the application, the application for a summons is to be dismissed. The court shall refrain from issuing a summons and at once dismiss the action on the merits by a judgment if the claim of the plaintiff is manifestly without a basis. |
| Existence of prima facie of claim | No. |
| Appeal availability (creditor) | The creditor can appeal. |

OPPOSITION BY THE DEFENDANT

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| Procedural rules | The simplified procedure is incorporated in the ordinary civil procedure. If the defendant challenges the claim, the claim is no longer undisputed and the consideration of the matter will continue according to ordinary rules on civil procedure. |
| Substantiated order of payment requirement | It is not required. |
| Effects of notice of opposition | If the defendant challenges the claim, the claim is no longer undisputed and the consideration of the matter will continue according to ordinary rules on civil procedure. |
| Nature of the structure of the procedure | See above. |

EFFECTS OF ABSENSE OF TIMELY OPPOSITION

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| Consequences on not filing opposition | Once the set time limit for the response expires, the court issues a default judgment in favor of the plaintiff. |
| How to obtain an enforcement judgement | The judgment in default is enforceable according to law. No declaration of enforceability is needed. |
| Effects for the order of payment | The judgment in default is not final. It can be by the defendant by way of appeal by review. |

COURT FEES

When the consideration of the matter has been concluded, i.e. a judgment in default has been issued; the district court collects a charge from the plaintiff. The trial fee for a judgment given in default is 80 euros. If the default judgment has been issued on the basis of an application for a summons and the particulars of the claim have been entered directly in the data system of the court, the fee is 60 euros.

ENFORCEMENT OF NATIONAL ORDER OF PAYMENT

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| Domestically | Judgments given in default are immediately enforceable. However, a judgment given in default will not result in enforcement as a matter of course. To collect the debt the creditor must file an enforcement request with the enforcement authority and attach to it the pertinent court decision or other documentary proof of an enforceable obligation. The collection methods used include the sending of collection letters, the garnishment of wages and salaries, and the distraint of assets. |
| Abroad | Enforceable judgments given in default are enforceable abroad as agreed in international conventions or EU legislation. |

COMPARING NATIONAL AND EU ORDER FOR PAYMENT

Both the EU Payment Order Procedure and the Finnish simplified procedure for uncontested claims are no-evidence procedures. As a consequence, both procedures are effective tools for debt recovery.