

Asserting financial claims in summary proceedings in the Czech Republic

The legal regulations governing special proceedings known as **summary proceedings** or **order proceedings**, in which it is possible to enforce the recovery of unpaid debts more quickly than in classic court proceedings, are to be found in the Czech Republic in law no. 99/1963, the Civil Procedure Code, as amended, in §§ 172-174. Proceedings designated as summary proceedings or order proceedings are those in which the court issues a decision which is called a **compulsory payment order**, or also a compulsory order to pay a bill or a cheque. Compulsory orders to pay bills or cheques are not dealt with in this paper.

According to the currently valid legal regulation, summary proceedings are a simplified form of proceedings, in which it is possible to assert **any financial claim to an unlimited amount**, if the reasonableness of the debt claimed in the facts asserted by the plaintiff in the petition appears to be sufficiently evident. The simplification in comparison with classic court proceedings consists in the fact that they are **proceedings in which there is no hearing, no substantiation of evidence, and the court makes a ruling without hearing the defendant, solely on the basis of the content of the petition**. At the same time, however, it always depends on the discretion of the court, even if the stipulated conditions are met, whether it will deal with the case by means of a compulsory payment order, or whether it will order a hearing and proceed as in any other contentious case. The court may issue a compulsory payment order even without an express request from the plaintiff. When filing an application for the issue of a compulsory payment order, it is **not necessary to be represented by a lawyer**.

A compulsory payment order **imposes a duty on the defendant to pay the debt that is claimed and the costs of the proceedings within 15 days of service of the order**, or else within the same time limit to lodge an appeal, which is called a **protest**. A compulsory payment order must be **delivered personally to the defendant (all defendants)**. For this reason a compulsory payment order cannot be issued if the address of the defendant is unknown or the defendant is abroad. It is not possible to deliver a compulsory payment order abroad.

If a protest is lodged, the compulsory payment order becomes void. For this to happen, it is sufficient if only one of a number of defendants lodges a protest. Grounds should be given for the protest, but a protest cannot be rejected because of insufficient grounds, and so even an unsubstantiated protest causes the compulsory payment order to become void. When a compulsory payment order has become void, the court orders a hearing and decides on the case by a judgement in classic court proceedings.

A compulsory payment order against which no protest has been lodged **assumes the effect of a final and enforceable judgement and entitles the claim to be executed**. If the defendant does not fulfil the duty that is imposed by the compulsory payment order voluntarily, then the plaintiff may apply for an order for execution of the judgement.

An appeal may be lodged against the finding on the costs of the proceedings in the compulsory payment order, but this does not cause the compulsory payment order to become void.

The elements necessary for an application for the issue of a compulsory payment order

An application for the issue of a compulsory payment order must contain all the elements laid down by the Civil Procedure Code for all petitions generally (§ 42, para. 4; § 79, para. 1), and in addition it is essential for the plaintiff to set out all the facts so that the right that is being asserted clearly arises from them and the court is able to pass judgement solely on this basis. It must also be clear from the application **which court it is intended for** (according to the rules for court jurisdiction), **who is making the application** (the exact first name, surname, address, or title and registered address, and in the case of entrepreneurs the identification number), **what case it concerns** (a description of the case that is the subject of the proceedings), and **what it is pursuing** (the "pleading" or purpose of the petition), and it must be **signed and dated**. In the application **the defending party must be designated** – first name, surname, address, where appropriate birth registration number; if it is a legal entity, then the trade name or title, registered address and identification number. In the application all **crucial facts** must be described and **proofs** must be indicated (in particular invoices and appeals for payment); from the facts given by the plaintiff it must in particular be clear what the origin, amount, and due date of the claim is, the amount of interest on late payment, and the time from which interest is claimed – from the application it must be clear **what the plaintiff is basing the claim on**.

The plaintiff is obliged to attach the written proofs he or she is basing the claim on to the application, either in documentary or electronic form. An application in documentary form must be submitted with the necessary number of duplicates and attachments such that one duplicate remains with the court and each party to the proceedings receives one duplicate. Only one duplicate is required for applications submitted in other forms. If an application is submitted electronically, all the attachments may also be attached in electronic form.

The court that is competent to receive applications

According to the rules of **subject-matter jurisdiction**, the **district courts (in Prague the municipal district courts)** are competent to hear and decide on applications for the issue of a compulsory payment order. In the case of litigation arising out of commercial obligations between entrepreneurs in the course of their business activities, the subject-matter jurisdiction lies with the **regional courts (in Prague the municipal courts)**, **with the exception of cases where the subject of the litigation is a monetary performance whose value does not exceed 100 000 Kč** – applications for the issue of a compulsory payment order in which the plaintiff asserts a right that is less than this amount may also be heard by the **district courts (in Prague the municipal district courts)**.

According to the rules of **territorial jurisdiction**, the **general court of the defendant** is territorially competent (§ 84 of the Civil Procedure Code). According to § 85 of the Civil Procedure Code, **the general court of a natural person is the district court within whose circuit he or she is resident**, or, if he or she has no fixed abode, the district court within whose circuit he or she lives. If a natural person is resident in more than one place, all the district courts within whose circuit he or she is resident with the intention of living there permanently (which does not have to mean "permanent residence" in the sense used in the regulations about the register of citizens) are his or her general court. If the natural person is an entrepreneur, and the case has to do with business relations, **the general court is the district court within whose circuit the entrepreneur has his or her place of business** (i.e.

the address entered in the Commercial Register or another register), and if he or she has no registered place of business, then it is the district court where he or she is resident or lives. **The general court of a legal entity is the district court where it has its registered office.** There are however exceptions with some legal entities, relating in particular to the state, the municipality, and the regional local government unit. These are dealt with in § 85 of the Civil Procedure Code.

Should the regional court have subject-matter jurisdiction for hearing and deciding on the case, and territorial jurisdiction be subject to the general court, then **territorial jurisdiction lies with the regional court within whose circuit the general court of the party is situated.**

Court fees

According to the appendix to law no. 549/1991 on court fees, as amended, the court fee for initiating proceedings dealing with a monetary performance up to a value of 15 000 Kč inclusive is **600 Kč**; for higher amounts, the fee is **4% of the amount.**

No court fee is charged for lodging a protest.

Electronic compulsory payment orders

The Civil Procedure Code also makes provision in § 174a for electronic compulsory payment orders, which may be issued by the court on the proposal of the plaintiff, if the application is submitted on an electronic form signed by the plaintiff with a guaranteed electronic signature, and if the monetary performance that the plaintiff is applying for does not exceed the amount of 1 000 000 Kč. Otherwise the conditions specified above for compulsory payment orders apply in a similar way to electronic compulsory payment orders. The court fee for an application for the issue of an electronic compulsory payment order dealing with a monetary performance up to a value of 15 000 Kč inclusive is **300 Kč**; for higher amounts, the fee is **2% of the amount.**

Legal regulations

- Law no. 99/1963, the Civil Procedure Code, as amended
- Law no. 549/1991, on court fees, as amended