

# NATIONAL REPORT

## - SLOVENIA -



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# GENERAL OVERVIEW

<b>National Legal system</b>	<p>The main source of Slovenian procedural law is Civil Procedure Act (CPA) from 1998, which has been amended several times, most notably in 2008. Slovenian civil procedure is closely related to Austrian. Namely, until 1918 the territory of what is nowadays Slovenia was part of Austria-Hungary (i.e. the Habsburg monarchy). Although Slovenia was Part of Yugoslavia (1918-1941, 1945-1991) it retained the main characteristics of the Austrian Civil procedure. The underlying principles of Slovenian civil procedure are principle of party initiative (principle of free disposition) and adversarial principle. The later is supplemented with the rules on active case management (substantive procedural guidance) of a judge.</p> <p>The enforcement procedures are regulated by the Enforcement and Securing of Civil Claims Act (ESCCA) from 1998, amended several times. The non-contentious procedures are regulated by the Non-litigious Civil Procedure Act (NCPA) from 1986.</p>
<b>Court jurisdiction and different types of litigation for debt collection</b>	<p>There are courts of general jurisdiction and specialized courts (labour and social security courts and administrative courts). Courts of general jurisdiction render decisions in civil and commercial matters.</p> <p>In the first instance of general jurisdiction, district and circuit courts have competence to render a decision. Generally, district courts shall have power to hear and determine disputes involving pecuniary claims where the amount in dispute does not exceed 20.000,00 EUR and where the amount in dispute exceeds 20.000,00 EUR circuit courts are vested with the competence (Articles 30(1) and 32(1) CPA).</p> <p>High courts have power to decide upon appeals against the decisions of district and circuit courts (Article 35/1 CPA). In the third instance, the Supreme Court has power to decide upon extraordinary legal remedies, such as revisions and petitions for protection of legality (Article 37 CPA).</p>

<p><b>National summary procedures for recovery of money claims</b></p>	<p>Basically there are three types of summary procedures for recovery of money claims in Slovenia:</p> <ul style="list-style-type: none"> <li>a) General Order for Payment (regulated in CPA);</li> <li>b) Order for Payment and Enforcement on Basis of a Credible Instrument (regulated in ESCCA); and</li> <li>c) Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes (regulated in ESCCA).</li> </ul> <p>The Order for payment and enforcement on basis of a credible instrument and Order for payment and enforcement on basis of produced bills of exchange or promissory notes are hybrid procedures combining a regular summary procedure for recovery of money claims (order for payment) and enforcement procedure.</p>
<p><b>State of IT operational options in judicial procedures for recovery of money claims</b></p>	<p>Slovenia is rapidly introducing IT in judicial procedures. A goal is to achieve a state of fully dematerialized procedures with electronic court files and electronic communication with parties and their representatives (for now it is mandatory for advocates only). However, the goal is not yet achieved and different procedures are in different states of IT support.</p> <p>A procedure with Order for payment and enforcement on basis of a credible instrument is fully computerized and IT supported and can be filed in electronic form only.</p> <p>The General Order for Payment is not yet IT supported, though there are ideas to integrate it in the same system with the Order for payment and enforcement on basis of an authentic instrument. The Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes is however not IT supported.</p>

## SCOPE OF THE PROCEDURE

<b>Eligible claims</b>	All three procedures are applicable to contractual monetary claims only.
<b>Limit regarding value of claim</b>	<p>General Order for Payment – monetary claims without limitation arising from or documented by a credible instrument (as such are deemed: authentic instruments, authenticated private instruments, bills of exchange, promissory notes, cheques, invoices, and excerpts from business records).</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – monetary claims without limitation arising from or documented by a credible instrument (as such are deemed: authentic instruments, authenticated private instruments, bills of exchange, promissory notes, cheques, invoices, and excerpts from business records).</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – monetary claims falling into a category of commercial matters (among undertakings) and arising from bills of exchange or promissory notes. No value limitation is set.</p>
<b>Rules on using the procedure</b>	<p>General Order for Payment – the court will apply this procedure whenever the conditions for such procedure are met. However, parties can choose other summary procedures as well.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – this procedure is optional, but the claimant has benefits comparing the General Order for Payment as the fees are reduced, the procedure is more expedite and without opposition it continues automatically in the enforcement procedure.</p>

	<p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – this procedure is optional and creditors with bills of exchange or promissory notes can always opt for a procedure with Order for Payment and Enforcement on Basis of a Credible Instrument. However, a creditor would have a huge benefit in this procedure as enforcement on monetary assets in banks is possible even prior the finality of the decision.</p>
<p><b>Possibility of using national procedure in cross border cases</b></p>	<p>General Order for Payment – it is possible.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – it is possible if place of enforcement is in Slovenia. This track, however, is not advisable if the enforcement in other countries is possible.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – it is possible if place of enforcement is in Slovenia. This track, however, is not advisable if the enforcement in other countries is possible.</p>
<p><b>Number of steps</b></p>	<p>General Order for Payment – it is a one-step procedure.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – it is a two-step procedure. In the first step a declaratory judgment and grant of enforcement are rendered. In second step (when there is no opposition) a procedure continues as a regular enforcement procedure.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – it is a two-step procedure. In the first step a declaratory judgment and grant of enforcement are rendered. In second step (when there is no opposition) a procedure continues as a regular enforcement procedure.</p>
<p><b>Rules on representation by a lawyer</b></p>	<p>Not mandatory.</p>

# COMPETENT COURTS

<p><b>According to matter</b></p>	<p>General Order for Payment - it can be any court of first instance hearing the case (district and circuit courts). The district courts are competent for monetary claims not exceeding 20.000,00 EUR (Art. 30(1) CPA). The circuit courts have competence for monetary claims exceeding 20.000 EUR (Art. 32(1) CPA).</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – the only competent court is the district court of Ljubljana with its specialized department.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – the competent court is any district court competent according to territory.</p>
<p><b>According to territory</b></p>	<p>General Order for Payment – it is a court according to the domicile of the debtor. However, it can be also a court of a place of payment on basis of bill of exchange, promissory note or cheque (Art. 64 CPA).</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – it is always a district court of Ljubljana.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – it is a district court according to the domicile of the debtor.</p>

# APPLICATION FOR AN ORDER FOR PAYMENT - FORMAL REQUIREMENTS

<b>Availability of standardized form and form description</b>	<p>General Order for Payment – there is no standardized form.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – there is a standard electronic form and its application is mandatory. It is available at:  <a href="http://www.sodisce.si/sodni_postopki/izvrsba_na_podlagi_verodostojne_listine_%28covl%29/">http://www.sodisce.si/sodni_postopki/izvrsba_na_podlagi_verodostojne_listine_%28covl%29/</a></p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – there is no standardized form.</p>
<b>Rules on representation by a lawyer</b>	<p>Not mandatory.</p>
<b>Description of the reasons for the claim</b>	<p>General Order for Payment – there must be circumstantiated groundings for the requirement in a form of a credible instrument relying upon.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument - there must be circumstantiated groundings for the requirement in a form of a credible instrument relying upon. As no credible instrument is enclosed to the form, a description of such instrument allowing identification is also necessary. However, this description will not be examined in the summary procedure, but it is important in a case of opposition.</p>

<p><b>Need for written evidence and documents admissible as proof</b></p>	<p>General Order for Payment – for claims up to 2.000,00 EUR no written evidence is required. Above 2.000,00 EUR a credible instrument (authentic instruments, authenticated private instruments, bills of exchange, promissory notes, cheques, invoices, or excerpts from business records) has to be presented.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – no written evidence is required (it only has to be described in the application).</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – a bill of exchange or promissory note has to be presented.</p>
<p><b>Option of electronically filing the form</b></p>	<p>General Order for Payment – no option yet, implementation in progress.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – only possible to file electronically (filing the form).</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – no option possible.</p>



# ISSUE OF THE ORDER OF PAYMENT

## Specific rules for dealing with submitted apps for order of payment and court decision

General Order for Payment – The court will examine the formal requirements and, in case the requirements are met, renders a decision. The formal requirements are:

- use of Slovenian language;
- existence of credible instrument (above 2.000,00 EUR);
- proper identification of parties and representatives;
- summary of the facts supporting the claim;
- express reference to the value of the debt with interest and other related claims.

Order for Payment and Enforcement on Basis of a Credible Instrument – The court (by electronic means) makes only formal examination whether the form is filed correctly and verifies whether the fees are paid. The application is processed fully automatically and the computer system is only controlling if the form is filed correctly. The decision is rendered automatically.

Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – the court will make a formal and substantive control before rendering a decision. Formal control is the same as with General Order for Payment, but besides this the court will have to check whether the case falls in a category of commercial matters (among undertakings). In a scope of substantive control a court will have to check whether a bill of exchange or a promissory note fulfills all legal requirements.

<p><b>Decision of the court on the payment order</b></p>	<p>General Order for Payment – if the application is accepted, the court will render a decision and serve it to the defendant by registered receipt mail (or electronically if applicable), ordering him to pay a claim with expenses in 8 days (in case of bill of exchange, promissory note or cheque in 3 days) or file an opposition.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – the electronic application is processed in 48 hours after the fees are paid and a decision is rendered ordering the defendant to pay a claim with expenses in 8 days (in case of bill of exchange, promissory note or cheque in 3 days) or file an opposition.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – The court will regularly render a decision in a period of five days ordering a defendant to pay within a period of 3 days or file an opposition. However, the decision is simultaneously served to the defendant and his bank and the bank has to pay for defendant upon expiration of a time limit of three days even in case if an opposition is filed (prior to finality of decision). The court will notify the bank when the time limit has expired.</p>
<p><b>Existence of guidelines for submitting application</b></p>	<p>General Order for Payment – There are no instructions.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – there are detailed instructions available at the court’s web page helping the creditors to file the electronic form.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – there are no instructions.</p>

<b>Defendant's service of the order of payment</b>	<p>The rules for service of the General Order for Payment, Order for Payment and Enforcement on Basis of a Credible Instrument, and Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes are the same. Although all advocates in Slovenia have a secure mailing box and the service of documents for them is normally by electronic means, this is of no importance for the service to defendants whose legal representatives are not known at the time the decision is rendered.</p> <p>The rules applicable to the service are the following:</p> <ul style="list-style-type: none"><li>- Service is performed at the company address according to the register or personal address of the defendant.</li><li>- If the messenger cannot find the defendant at home and cannot serve it to the household members, he writes a notice and leave it in the defendant's mailbox, informing the defendant that he can take over the mail at the post office (or courthouse) in the following 15 days. If the mail is not took over in the following 15 days the service is considered performed by expiration of this time limit.</li><li>- A service to legal entities is considered performed if a mail is served to an employee in the entity's premises.</li><li>- If the defendant refuses to accept the service, the messenger shall write a notice of the incident and leave the mail in the mailbox (or in the house or premises) and the service is considered performed.</li><li>- If the messenger ascertains that the defendant does not live at the address where the service is attempted, he informs the court with the notice of possible return of the defendant or the notice of unknown addressee. In such case the court will try to find the defendant's whereabouts in the National register.</li></ul>
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## REJECTION OF THE APPLICATION

<b>Grounds for rejecting application</b>	<p>Application for the General Order for Payment can be rejected if the conditions for such procedure are not met. However, in such cases the procedure continues as with normal lawsuit.</p> <p>Application for the Order for Payment and Enforcement on Basis of a Credible Instrument can be rejected if it does not follow the specific rules mentioned above. The same applies to the Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes, which can be rejected also in cases where a bill of exchange or promissory note do not meet criteria for such instruments.</p>
<b>Existence of prima facie of claim</b>	No.
<b>Appeal availability (creditor)</b>	For all three procedures with Order for Payment (and Enforcement) an appeal is available to the Creditor.

## OPPOSITION BY THE DEFENDANT

<p><b>Procedural rules</b></p>	<p>In all cases the opposition may be presented both in paper or electronic form (if the defendant or his representative meets the technical criteria for secured communication with courts). The rules for the opposition procedure are basically the same for all three procedures (General Order for Payment, Order for Payment and Enforcement on Basis of a Credible Instrument, and Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes). The opposition has to be substantiated. The effect of successful opposition is that the order for payment procedure is converted in an ordinary declaratory proceeding (or small claims track or commercial dispute procedure if applicable).</p> <p>Time limits for opposition are generally 8 days for General Order for Payment or Order for Payment and Enforcement on Basis of a Credible Instrument. In cases where the credible instrument for General Order for Payment or Order for Payment and Enforcement on Basis of a Credible Instrument are cheques, bills of exchange or promissory notes, or in the procedure with Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes, the time limit is 3 days. Such time limits do not seem to be reasonable for cross-border cases as the documents will be served in Slovenian language.</p>
<p><b>Substantiated order of payment requirement</b></p>	<p>Substantiation of an opposition is required for all three procedures (General Order for Payment, Order for Payment and Enforcement on Basis of a Credible Instrument, and Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes).</p>
<p><b>Effects of notice of opposition</b></p>	<p>The effect of successful opposition is that the order for payment procedure is converted in an ordinary declaratory proceeding (or small claims track or commercial dispute procedure if applicable). The procedure is diverted to the competent court if applicable.</p>
<p><b>Nature of the structure of the procedure</b></p>	<p>Shall follow the rules of the declaratory procedure (or small claims track or commercial dispute procedure if applicable).</p>

## EFFECTS OF ABSENSE OF TIMELY OPPOSITION

<p><b>Consequences on not filing opposition</b></p>	<p>General Order for Payment – the order becomes final and enforceable. The creditor has to seek a certification of enforceability and initiate an enforcement procedure.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – the courts continue on its own motion with the enforcement procedure.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – the court continue on its own motion with the enforcement procedure unless the money has been recovered from the bank even before the finality of decision.</p>
<p><b>How to obtain an enforcement judgement</b></p>	<p>General Order for Payment – the creditor has to initiate the enforcement procedure on his own motion.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – the procedure automatically continue as enforcement procedure.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – the procedure automatically continue as enforcement procedure.</p>
<p><b>Effects for the order of payment</b></p>	<p>General Order for Payment – it is final.</p> <p>Order for Payment and Enforcement on Basis of a Credible Instrument – it is final.</p> <p>Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes – it is final.</p> <p>In all cases the further opposition is possible in enforcement procedure that the obligation has become extinct after the finality of decision or that there is an agreement to postpone the enforcement.</p>

## COURT FEES

General Order for Payment – the fees are divided in 21 classes according to the value of the claim. Here we give just some examples The lowest fee would be for claims up to 300,00 EUR – 20,40 EUR. For claims between 1.500,00 and 2.000,00 EUR it would be 60,00 EUR. For claims between 4.500,00 and 5.000,00 EUR it would be 96,00 EUR. For claims between 9.000,00 and 10.000,00 EUR it would be 150,00 EUR. For claims between 13.000,00 and 16.000,00 EUR it would be 169,20 EUR. For claims between 16.000,00 and 19.000,00 EUR it would be 188,40 EUR.

Order for Payment and Enforcement on Basis of a Credible Instrument – 36 EUR for one object of execution (i.e. monetary assets in a bank). The fee is increased for additional objects of execution.

Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes - 45 EUR for one object of execution (i.e. monetary assets in a bank). The fee is increased for additional objects of execution.

# ENFORCEMENT OF NATIONAL ORDER OF PAYMENT

<b>Domestically</b>	The enforcement in all procedures follows the national general rules of enforcement. Special case is with the Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes where an enforcement on debtor's monetary assets in banks is possible even prior the finality of the decision, which is not possible in other cases.
<b>Abroad</b>	<p>General Order for Payment – the enforcement would follow the general rules.</p> <p>There might be problems with enforcement of Order for Payment and Enforcement on Basis of a Credible Instrument and Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes abroad. These decisions are of hybrid nature combining a declaratory decision and a grant for enforcement. As a grant for enforcement is considered as “acta iure imperii” it is questionable how such decisions would be treated abroad.</p>



## COMPARING NATIONAL AND EU ORDER FOR PAYMENT

General Order for Payment – is very similar to the EU procedure for claims up to 2.000,00 EUR as it is non-documentary. For claims exceeding 2.000,00 EUR there is a difference as a credible instrument has to be enclosed to the application.

For the Order for Payment and Enforcement on Basis of a Credible Instrument and the Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes we can note some important similarities with the EU Payment order. However, one should also note that these national procedures are of hybrid nature combining a declaratory procedure and enforcement procedure. In a procedure with the Order for Payment and Enforcement on Basis of Produced Bills of Exchange or Promissory Notes one should also note that this is a documentary procedure.

All national procedures have also considerably shorter time limits for opposition (i.e. 8 or 3 days) than the EU procedure (30 days).