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Small claims procedure and payment order in Slovenian national law

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Small claims procedure

- Regulated in Contentious Civil Procedure Act (Art. 442-458).
- Special procedure
- Amount does not exceed 2.000,00 EUR (immovable property, copyright, inventions and marks of distinctiveness, competition, disturbance of possession)
- Competence: local courts of general jurisdiction
- Keeping of records is streamlined; as well as the appealability of decisions



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- In principle, the procedure should be conducted in writing.
- Claimant must state all facts and adduce all evidence in the action, while the defendant must do so in his defence plea (8 days).
- Each party has the right to file one additional written application.
- Judgement on the basis of acknowledgment (if no defence plea from defendant).
- If the court finds that no dispute exists on the matter of the facts and that no other obstacles hinder the rendition of a decision, it shall decide the case without a hearing (even if facts are disputed but can be deduced from written materials).



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- If parties nonetheless request a hearing
 - If Claimant does not appear – Judgement on the basis of relinquishment
 - If Defendant does not appear – Judgement on the basis of acknowledgement
 - If neither party appears – Withdrawal of action

- If the court sets a hearing without either party having requested it:
 - Fiction: a party does not appear (withdrawal of application for evidence)



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- In small claims procedure the judgment shall be announced immediately after completion of the main hearing.
- When reduced to writing, the judgment shall include an introductory part, an ordering part and a shortened reasoning.
- **May be appealed against only on the grounds of severe violation of civil procedure provisions and of violation of substantive law**
- Exclusion of extraordinary remedies.



Payment order

- Special procedure (431 – 441 CCPA)
- Payment order (decision)

When a monetary claim is supported by an authentic document the original or a certified copy of which is enclosed with the action, the court shall order the defendant to satisfy the claim (payment order):

Authentic documents shall include, but not be limited to, the following:

- 1. public documents;
- 2. private documents on which the signature of the debtor has been authenticated by a body authorised for authentication;
- 3. bills of exchange or cheques, with the protest and certificate of payment when the latter are required for the origination of the claim;
- 4. certified statements of outstanding debts;
- 5. invoices;
- 6. other writings assuming the character of a public document under special regulations.

The court shall issue a payment order even if the plaintiff has not applied to this effect , provided that the conditions exists for the issuance thereof.

Non-documentary payment order (<2000 EUR)



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- Legal secretary may issue; *ex-parte*
- By issuance of a payment order, the court shall impose on the debtor a duty to satisfy the claim and pay the determined amount of costs within the term of **eight days** from the day of service of the payment order, in disputes involving bills of exchange or cheques such term of payment being **three days**, or else to file a plea against the payment order in the same period of time.
- PO served upon both parties.
- If the court dismisses the application for issuance of a payment order, it shall continue to proceed with the action.



- **The defendant may challenge the payment order only by means of a objection.**
- The defendant shall submit documents and adduce evidence supporting the statements contained in the objection plea, otherwise shall be deemed unfounded.
- If the payment order is challenged only in respect of the decision on costs of proceedings, then such decision may only be challenged by means of appeal.
- The payment order shall become final in respect of the part which is not subject to a plea.



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- Connection between the two procedures?

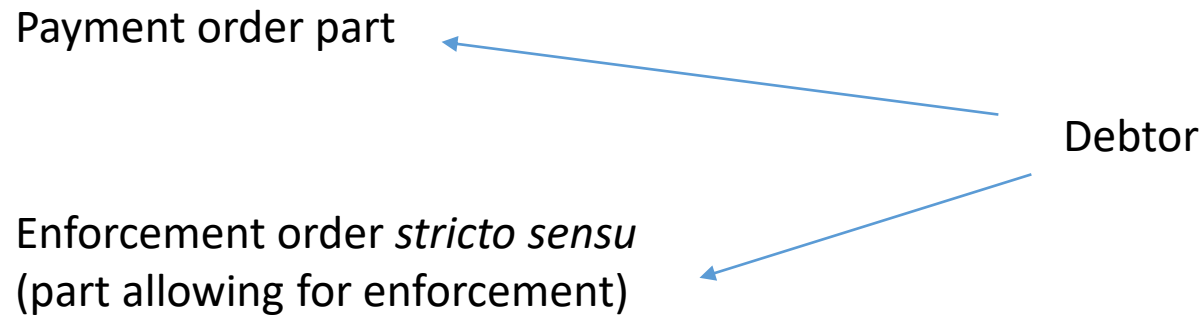


Application for enforcement based on authentic documents

- The court shall indicate in the enforcement order based on an authentic document that the order has been issued on the basis of information submitted by the creditor in the application for enforcement and that the court has not verified the said information (art 44 CEPA)
- **By issuing an enforcement order on the basis of an authentic instrument, the court shall impose on the debtor the obligation to pay the claim together with the corresponding charges and permit enforcement within eight days or, in disputes concerning bills of exchange and cheques, within three days of service of this order.**



- If the debtor challenges the enforcement order in full or only in the part by which the court imposed on the debtor the obligation to settle the claim, the court shall repeal the enforcement order. The court shall then continue with the proceedings in the same manner as in an objection against a payment order.
- An application for enforcement based on an authentic instrument that served as the basis for issuing a repealed enforcement order shall be treated as a legal action in contentious civil proceedings.





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Thank you!