

NEWSFLASH

New approach for more effective enforcement of claims

Contents

1. Application for the commencement of proceedings
2. Issuing the payment order
3. Lodging objection by the defendant
4. Possibility to ask for the fulfilment in instalments

Dear clients,

the new act on the dunning procedure enters into force on 2 February 2017. The aim of the new act is to bring the acceleration and higher effectivity of the enforcement of financial claims. The procedure shall be ruled by electronic tools. The simplification and acceleration shall be secured by the competency of the sole court, which shall solve this agenda – District Court Banská Bystrica. The result of the procedure will be the issuing of an order for the payment of the financial claim.

1. Application for the commencement of proceedings

The application shall be lodged electronically into the electronic mailbox of the court via the special form. The annexes, which shall be enclosed to the application shall be lodged in the electronic form together with the application. The information about the account number, to which the defendant shall fulfil its obligation, shall be the part of the application.

The significant simplification rests also in the fact that the invoice or other similar call for payment, on the basis of which the fulfilment of the enforced claim from the defendant was requested, are sufficient and the plaintiff has to declare that he/she registers the enforced claim in his/her accountancy. It is not inevitable to prove e.g. the delivery of orders or invoices to the defendant or taking over the goods or services on the basis of the delivery note. In case that the plaintiff is the payer of

the value added tax, he/she may declare in the application that the information about the enforced claim against the defendant were stated in the control statement and other facts do not need to be proven.

The act determines the conditions under which the application for the commencement of proceedings is not admissible (e.g. the application contains high interests, application contains claim from the consumer contract including the unacceptable contractual condition, defendant stays abroad, the claim results from the bill of exchange issued by the natural person).

2. Issuing the payment order

After the fulfilment of all conditions (including the payment of the court fee, which is about 50% lower than by the standard application for the court proceedings) the court shall issue the payment order within 10 days. On the basis of the payment order the court imposes an obligation to the defendant to pay the enforced claim within 15 days to the plaintiff and to reimburse the costs of proceedings or to lodge an objection within the same period. The payment order shall be delivered to the parties preferentially in the electronic form; in case that it is not possible, the payment order shall be delivered to the defendant in his own hands. The payment order may not be delivered abroad.

In case that the payment order will not be delivered to the defendant, the court challenges the plaintiff to propose continuing

the standard court proceedings before the competent court within 15 days. In case that the plaintiff does not do so, the dunning procedure shall be stopped.

3. Lodging objection by the defendant

In case that the payment order was delivered to the defendant, he/she shall pay the enforced claim within 15 days or lodge an objection with the statement of reasons, for which he/she assumes that he/she is not obliged to pay the enforced claim to the plaintiff. The objection may be lodged also in the paper form. In case that the objection is lodged electronically, it must be lodged in the special form. If the plaintiff and the defendant are accounting units, the defendant must state, whether the invoice was delivered to him, how he treated it and whether he registers the invoice in his accountancy. If the plaintiff is also the payer of the value added tax, the defendant must state whether he kept the invoice in his control statement. If the defendant registered the invoice in the control statement, he must doubt the claim with the serious evidence, which he has to enclose, otherwise the objection shall be considered as unjustified.

The court dissolves the payment order, if the objection with the objective reasoning was lodged on time. If the court did not refuse the objection lodged by the defendant, the court sends the objection to the plaintiff for his statement with the call for lodging the application for continuing the standard court proceedings before the competent court. If the plaintiff does not lodge an application for continuing the standard court proceedings before the respective court within 15 days, the dunning procedure shall be stopped.

The payment order, against which the objection was not lodged, has the effect of the final judgement. It establishes the possibility of the plaintiff to initiate the execution proceedings on the basis of the payment order as an execution title.

4. Possibility to ask for the fulfilment in instalments

The defendant may request to be allowed to pay the debt in instalments. The act states four conditions of the acceptance of such request: (i.) the defendant is the natural person, he/she does not object the claim and did not lodge an objection, (ii.) the claim is higher than the minimum wage and lower than EUR 2.000,-, (iii.) the claim will be paid maximal in 10 regular instalments, the amount of one instalment is in the minimal amount of EUR 50,-, (iv.) the defendant provably paid the first instalment.

In case that you have any matured claims against the third parties, which were not paid in the full amount or partly, we will gladly provide you with our assistance and support by their enforcement on the basis of the new rules, which ensure higher effectiveness and promptness of proceedings. We will gladly provide you with our professional advisory also in case that you are a party in any phase of the enforcement proceedings.

In case of your interest in our services please do not hesitate to contact Mr. Ondrej Suriak, (email: ondrej.suriak@vgd.eu).

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