

Litigation and enforcement in Latvia

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for Latvia

SORAINEN



The main method of civil and commercial dispute resolution in Latvia is court litigation. Court proceedings are regulated by the Civil Procedure Law (CPL).

Limitation periods

The general limitation period for civil claims is ten years as set out in Article 1895 of the Civil Law (CL). The limitation period begins from the moment when a claim against the debtor is established (CL 1896).

Certain claims have other limitation periods. For instance, the limitation period for claims arising from a commercial transaction is three years as set out in Article 406 of the Commercial Law (with some exceptions).

General principles

Civil cases are reviewed publicly, except for cases that concern certain family matters. Parties may also request a closed hearing to protect state secrets, commercial secrets, inviolability of private life and correspondence, interests of children, etc.

Court proceedings must be in Latvian, including any case materials submitted by the parties. The court may, however, allow certain procedural actions to take place in another language if a party requests it and the other parties agree.

First and second instance courts evaluate all evidence directly. Explanations and testimonies are provided orally; written evidence or other materials are read out unless parties consent to leave them unread.

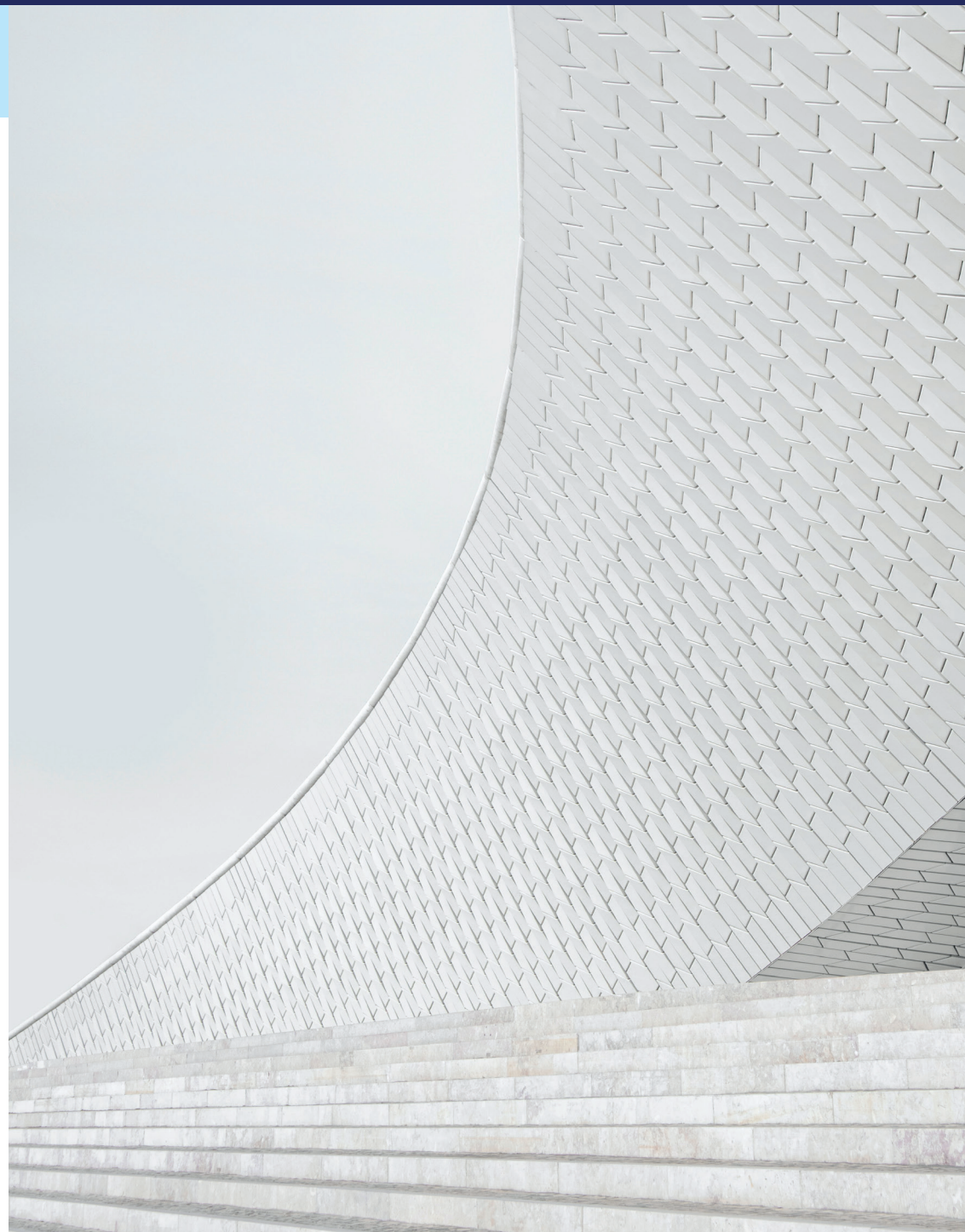
Representation

A natural person or legal entity may conduct its case personally or through its authorised representatives.

Any natural person may be a representative, given that they are of age, have no familial relation to the judge, and – in the case of lawyers – have not provided legal services to the other party in this or a related dispute.

However, in the cassation instance the representative must be an attorney at law as well as in cases concerning:

- declaration of shareholder meetings' decisions as invalid;
- claims exceeding EUR 150 000;
- trade secret protection matters.



Court proceedings occur in four stages: **initiation** → **preparing the case** → **trial** → **judgment**.

Court proceedings are initiated by filing a statement of claim. The statement of claim is reviewed within ten days, leading to one of three decisions. The statement of claim:

- is accepted, and the judge initiates court proceedings;
- is not accepted when the court lacks jurisdiction over the dispute or the person bringing a claim lacks legal capacity to do so, or the parties have agreed to submit the dispute to arbitration;
- is not reviewed because it lacks certain mandatory details; for instance, it must indicate whether the parties are open to mediation. The judge sets a time limit for elimination of these deficiencies (at least 20 days).

To ensure timely examination of a case, after receipt of a statement of claim, the judge prepares the case for trial. During this stage, parties submit explanations and evidence as well as their requests regarding the need for third parties, evidence, witnesses, expert examinations, written and material evidence, and use of video conferencing during the trial. The judge may find it necessary to hold a preparatory hearing to decide on these requests.

Evidence

The court will accept only means of evidence (1) specified by law and (2) relevant to the case.

The following facts are exempt from the need to prove them:

- universally known facts acknowledged by the court;
- facts established by judgment in a civil case involving the same parties;
- criminal liability established by judgment/ decision in a criminal case when the same offence leads to civil liability;
- facts deemed to be established by law;
- facts which have not been disputed by the other party.

General provisions

Evidence must be filed with the court not later than 14 days before the court hearing unless the judge has set another deadline for filing evidence. Evidence may be submitted during the trial upon a reasoned request if:

- it does not impede the trial; or
- the court finds the reasons for untimely submission of evidence justified; or
- the evidence concerns facts which have become known during the trial.

The court may also be involved in obtaining evidence. First, if the court decides that no evidence has been submitted in respect of any of the facts on which parties base their claims and objections, it will inform the parties accordingly. Second, when it is not possible for the parties to submit evidence, the court will – upon their reasoned request – require such evidence (e.g. from state institutions).

Witness testimony

Parties may ask to examine witnesses, indicating what circumstances relevant to the case they affirm. The witness examination is led by the court, and all participants in the case may question the witness, starting with the party at whose request the witness was summoned.

Witnesses are examined orally (by video-conferencing when necessary); the only exception being secured evidence. Under extenuating circumstances, the parties may fear that certain evidence will no longer be available or admissible at a later stage, and request the court to secure it beforehand. For instance, an old or terminally ill witness might be examined before trial, thus precluding oral testimony.

A witness who knowingly provides false testimony or refuses to testify for reasons which the court finds unjustified may incur criminal liability.

Expert examinations

Parties to a case may request the court to order an expert examination where specific knowledge in science, technology, art, or other field is necessary. If the parties obtain expert examinations without the court's involvement, that evidence is considered part of that party's written submissions rather than an expert examination.

Experts are selected by the parties to the case by mutual agreement from a list of state-certified experts; in the absence of agreement – the court decides.

Securing a claim or preliminary injunction

If there are reasonable grounds to believe that enforcement of the court judgment may become difficult or impossible, the court may – upon the claimant's reasoned application – decide to secure the claim. The state duty for securing a claim is 0.5% of the amount claimed

The claimant must establish why enforcement might be difficult and what means of securing a claim would be appropriate, as well as demonstrating that the claim is *prima facie* substantiated. The claimant's application will be reviewed within a day from initiation of the case; an ancillary complaint may be submitted regarding the refusal to secure a claim.

Means by which a claim may be secured:

- seizure of defendant's cash and movable property;
- prohibition note in the register of movable property (e.g. vehicle register) or other public register;
- making a securing-of-claim note in the Land Register / Ship Register;
- arrest of a ship;
- prohibition for the defendant to perform certain actions;
- seizure of payments due from third persons (monetary funds in credit institutions and other financial authorities);
- postponement of enforcement activities.

Multiple means of securing a claim may be applied simultaneously, as long as their total value does not exceed the value of the claim.

Trial

Examining the merits of a case commences with the judge's report on the facts of the case. The parties then provide their explanations regarding all circumstance which substantiate their claims or objections. Explanations may be submitted in writing and read during the hearing.

After hearing the explanations and opinions of all parties, the court establishes a procedure for examining witnesses, experts, and other evidence. Examination of the merits of a case ends when all evidence has been reviewed.

Finally, the parties take part in a legal debate, the length of which in theory is unlimited. The parties must only refer to circumstances and evidence already examined at the court hearing.

Court judgment

After the debates, the court retires to deliberate its judgment. If the court finds it impossible to issue a judgment during the hearing, it determines a date within 30 days when the judgment will be made available. A court judgment enters into force when the time for appeal expires and no notice of appeal has been filed.

In certain cases, the court may issue a summary judgment, which excludes the facts and arguments in the case, only referring to the legal acts applicable. Summary judgments are drawn up within 14 days from the end of trial, and may be issued in the following cases:

- if the court satisfies the claim and the defendant has fully recognised it;
- in the case of a default judgment¹ – if the court satisfies the claim in its entirety;
- in simplified proceedings.

¹ The court of first instance may issue a default judgment (in absentium) in a case where the defendant fails to provide explanations regarding the claim and fails to attend the court hearing without reason.

Appeals and cassation

Appeals are reviewed by one of the five regional courts, each with jurisdiction over the geographical region of multiple courts of first instance. A notice of appeal may only include claims that have been brought before the court of first instance.

Notice of appeal against a first instance court judgment may be filed within 20 days from pronouncement of the judgment (in a court hearing or when later made available). The notice must demonstrate the judgment's faults – whether the applicant considers that certain facts are false, the evidence was assessed incorrectly, legal arguments were fallacious, material norms misapplied, or perhaps the court breached procedural rules. The applicant may also request that the court accept additional evidence, explaining why this was absent during the first court instance.

Note that the Supreme Court no longer reviews the merits of a case. A cassation complaint may be submitted only regarding the appellate court's errors – if the court has violated procedural rules or misapplied material norms, thus leading to a faulty judgment. The cassation complaint may be filed within 30 days from pronouncement of the judgment.

The Supreme Court may also refuse to accept the complaint if it finds that:

- the disputed judgment conforms with Supreme Court case law; or
- there is no clear evidence that the outcome of the case is incorrect and the case to be examined would not hold significance for unified case-law or further development of law; or
- in disputes of a financial nature – the disputed claim is less than EUR 2000 and the case to be examined would not hold significance for unified case-law or further development of law.

Sanctions

The court may impose four types of sanctions: warnings, expulsion from the courtroom, fines, and being brought to the court by force.

Warnings are issued to anyone disturbing the court proceedings. Anyone who disturbs the court proceedings repeatedly may be expelled from the courtroom.

Fines are imposed for certain procedural violations. For instance, a participant in the case may be fined for disrespect to the court, intentionally filing a false claim, using their rights in bad faith (e.g. knowingly delaying the proceedings, presenting false information), and other transgressions regulated by the CPL.

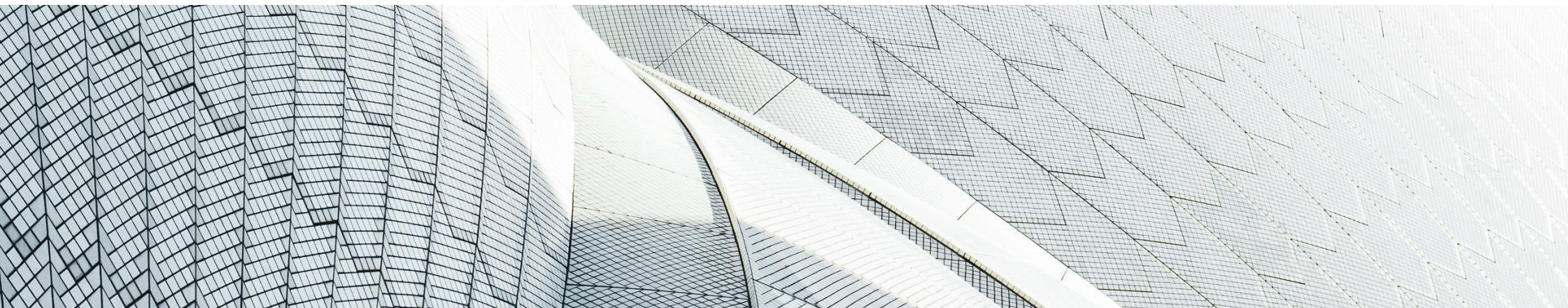
Finally, persons who are summoned to the court and fail to attend the hearing without justified cause may be forcefully brought to the court. They may additionally be fined.

Costs

Costs are awarded to the winning party. When a claim is satisfied only in part, the claimant is reimbursed in proportion to the successful claims and the defendant – in proportion to claims dismissed.

However, the winning party might be unable to recover all legal fees²; the limit depends on the amount of the claim and the court instance. For example, in second instance court proceedings with a claim above EUR 57 000, the legal fees recovered may not exceed 5% of the claim value. The limits are halved for first instance court proceedings.

² In Latvia lawyers may freely set the rules of reimbursement as long as these are clearly conveyed to the client, including pro bono work and reasonable success fees or pre-payments.



When a judgment has entered into force, the winning party may request the court to issue a writ of execution, which may be enforced within ten years.

The creditor may choose to file a writ of execution as soon as the term for voluntary execution of the judgment by the debtor has run its course (10 days). However, the decision to commence enforcement proceedings is highly dependent on the debtor's financial stability; especially since the creditor will bear the costs of unsuccessful enforcement.

A court bailiff may recover the necessary funds from money due to the debtor from third parties (e.g. salary and other income, deposits in credit institutions) or selling the debtor's real estate / movable property, including property in possession of third parties.

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