

# Cross Border

## Debt Collection Procedures



Bulgaria	Hungary	Serbia	Slovakia	Romania
<b>Time Limit</b> <p>Time limits are connected with prescription. Standard prescription period is 5 years, if a claim is submitted after the expiry of 5 years since the payment date, the defendant may object and the claim will be rejected. In the events of periodically incurring debts, debts based on promissory notes, penalties and legal interest, the prescription period is 3 years since the date on which such kind of debt has become executable.</p>	<b>Time Limit</b> <p>The period of limitation is generally 5 years and starts upon the due date of the claim. If the obligee is unable to enforce a claim for an excusable reason, the claim is enforceable within 1 year from the time when the said reason is eliminated or, in respect of a period of limitation of 1 year or less, within 3 months, even if the period of limitation has already lapsed or there is</p>	<b>Time Limit</b> <ul style="list-style-type: none"> <li>• Mutual receivables between legal entities emanating from contracts on trade of goods and services and for compensation for expenses incurred related to these contracts expires in 3 years;</li> <li>• General statute of limitations for receivables is 10 years;</li> <li>• The statute of limitations</li> </ul>	<b>Time Limit</b> <p>A creditor can claim his right in a court proceeding within so called prescription period which is:</p> <ul style="list-style-type: none"> <li>• 4 years if there is a contract between a creditor and debtor governed by the Slovak Commercial Code; or</li> <li>• 3 years if there is a contract between a creditor and debtor</li> </ul>	<b>Time Limit</b> <p>According to the Romanian New Civil Code, the general time limit (prescription period) for a claim is 3 years from the date when the debt is due.</p>
<b>Threshold For Debt Collection</b> <p>Low amount of the debt is not an obstacle for the creditor to access to a first instance court. The importance of the amount of the debt is connected to courts' competence as first instance. If the claim's amount does not exceed EUR 12,500.00 the respective regional court will be the competent first</p>	<b>Threshold For Debt Collection</b> <p>There is no threshold in respect of the amount of the claims the debt collection. However, there is a limitation in respect of the types of debt collection according to the amount of the claim. With regard to those claims, where the amount does not exceed 1 000.000,- HUF (that is ca.</p>	<b>Threshold For Debt Collection</b> <p>No, there is no threshold for debt collection. However, the dispute over a debt up to 10.000 EUR will be considered as a dispute of small value, so the shorter proceeding is guaranteed by law.</p>	<b>Threshold For Debt Collection</b> <p>There is no threshold for the debt collection.</p> <p>When filing a court action for debt collection, a court fee amounting to 6% of the claimed debt (but minimum of EUR 16.50) must be paid to the court.</p>	<b>Threshold For Debt Collection</b> <p>There is no threshold for debt collection. The civil law principle is for the full recovery of the damage, subject to the expiry of the limitation period. The amount of the debt is connected to respective courts' competence. If the amount claimed does not</p>

<p>instance court. If the claim's amount exceeds EUR 12,500.00 the respective district court will be the competent one as first instance court.</p> <p>The claim's amount is important also upon submission of claims with the Bulgarian Court of Cassation, a claim which exceeds EUR 2,500.00 and a commercial case with a claim which exceeds EUR 5,000.00 shall not be subject to an appeal with the Bulgarian Court of Cassation.</p>	<p>procedures to be used according to the amount of 3300,-EUR) exclusively payment order may be issued.</p>	<p>exceed 500.000 lei, the district court of the debtor will be the competent court at first instance. If the amount exceeds 500.000 lei, the relevant court will be the Tribunal will be the competent one of first instance court. If the amount does not exceed 100.000 lei, the matter will be subject to only 1 appeal. If the amount exceeds 100.000 lei, then the case can be the subject of 2 appeals.</p>		
<p><b>Is it possible to start a court proceeding in your country if the debtor is based in your country?</b></p> <p>Yes, a Hungarian creditor may initiate a court procedure with a Bulgarian court provided the fact that the debtor is based in our country. Both Bulgaria and Hungary are EU Member States and the Council Regulation (EC) No 44/2001 of December 22, 2000, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as well as any other EU piece of legislation, is fully applicable upon civil and commercial matters. The EU legislation</p>	<p><b>Is it possible to start a court proceeding in your country if the debtor is based in your country?</b></p> <p>The rules on jurisdiction are governed by the Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The debtor's domicile shall apply when deciding on jurisdiction. In Hungary notary public has jurisdiction for the issuance of payment order, once it transfers to civil procedure, the court, which has competence according to the debtor's domicile.</p>	<p><b>Is it possible to start a court proceeding in your country if the debtor is based in your country?</b></p> <p>First, jurisdiction depends on the contract. Second, if there is no agreement on jurisdiction, in accordance with the Civil Procedure Act (Official Gazette no. 72/2011) the court of the domicile of the defendant/debtor will be in charge for the proceeding.</p>	<p><b>Is it possible to start a court proceeding in your country if the debtor is based in your country?</b></p> <p>The jurisdiction of courts in the EU member states for the relationships between the entities domiciled (seated) within EU is governed by the Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Based on this and if not agreed between the parties otherwise a basic principle of debtor's domicile shall apply when</p>	<p><b>Is it possible to start a court proceeding in your country if the debtor is based in your country?</b></p> <p>The applicable rule on jurisdiction will be the provisions of the contract between the debtor and creditor. If the contract stipulates a special court for any dispute regarding the contract, then this will be the competent court. If the contract does not stipulate a special court or if there is no contract between the parties, then the legal action has to be lodged with the court in whose jurisdiction the</p>

has pre-eminence to any national piece of legislation.			deciding on jurisdiction. Obviously, in cases specifically addressed in the Regulation, the claimant can decide to apply other than debtor's domicile principle.	defendant resides or has its headquarters (in Romania).
<b>Length of the procedure</b>	<b>Length of the procedure</b>	<b>Length of the procedure</b>	<b>Length of the procedure</b>	<b>Length of the procedure</b>
<p>It depends where the court is located and on the procedure which is to be followed – the standard or the simplified one (possible and applied in cases of pecuniary receivables in amounts not exceeding EUR 12,500.00 or debts on the ground of written documents such as ones signed with notary certification of the signatures, notary deeds, promissory notes, administrative acts, etc.).</p> <p>One instance of the simplified procedure usually lasts from 1-3 months.</p> <p>One instance of the standard procedure for debt collection usually lasts 6-9 months. If considerable complications arise, its length may reach 1 year.</p>	<p>Depends on the complexity of a case. The issuance of a payment order is quicker, may take 2-3 months, however if it transfers to civil procedure, it may be of a same length than an ordinary civil procedure. Enforcement through ordinary civil procedure may take 1-2 years, while debt collection through liquidation procedure may take 1-3 years as well.</p>	<p>The average length of the court proceedings in civil matters is:</p> <ul style="list-style-type: none"> <li>• before the Commercial Courts- around 1 year;</li> <li>• before the Civil Courts- around 3 years.</li> </ul>	<p>The average length of the court proceedings (in the year 2012) in civil law matters was 11.6 months and in criminal matters was 4.5 months.</p> <p>The court proceedings in which only a payment order is being issued can be quite short (ca. 3 months).</p> <p>Probably the longest court proceeding took 16 years and it was in a civil law matter regarding determination of an ownership right to a real estate.</p>	<p>The length of the procedure depends on the court procedure adopted.</p> <p>Special procedure in cases where there is no defense is the fastest. The decision is issued within 45 days upon application</p> <ul style="list-style-type: none"> <li>• Ordinary legal action, if the debtor contests the claim, This can take up to 12 months for each procedural stage</li> <li>• Insolvency procedure is more of a way to compel the debtor to pay by blocking its activity (it is the longest procedure, there are other factors involved, we cannot estimate the time accurately and can take years.</li> </ul>
<b>Key Issues To Consider</b>	<b>Key Issues To Consider</b>	<b>Key Issues To Consider</b>	<b>Key Issues To Consider</b>	<b>Key Issues To Consider</b>
Written evidences for the amount and ground of the debt shall be taken into consideration. Preliminary	It is vital to be in dispose of all evidences supporting the claim, as invoices, contract as being a legal	<ul style="list-style-type: none"> <li>• Non efficient provisions on delivery of calls for summons. Therefore, the avoidance of the</li> </ul>	Each client should check first if there is solid documentation or other evidence proving	Debts can only be proved with written evidence. Depending on the strength, the Debtor can contest the

<p>information about the debtor from official registers should also be collected. The attorney-at-law shall also assist the client in choosing between the simplified procedures or the standard ones when the conditions for both of them are at hand. It should be taken into consideration whether the claim will be secured and whether the claim will be secured preliminarily or in the holding of the court case.</p>	<p>title for the claim, correspondences between the parties. If there is liquidation proceeding initiated, written notice for payment has to be previously sent out, which must include the exact due date, amount, legal title of the claim and deadline for performance. The insolvency of the debtor should be taken into account.</p>	<p>defendant may seriously prolong the proceedings;</p> <ul style="list-style-type: none"> <li>• The massive insolvency of the legal entities due to economic crisis (it is advisable to check always the solvency of the debtor);</li> <li>• Cautio iudicatum solvi - payment of security for legal costs.</li> </ul>	<p>existence of its right. In case of claims based on a contract, the provisions on maturity, manner and place of payment, delay interest, governing law and jurisdiction should be thoroughly reviewed. Potential expiry of the prescription period should be checked as well. It is recommended to check in advance the solvency of the debtor and non-existence of bankruptcy or restructuring proceedings over the debtor's assets.</p>	<p>existence of the debt, it's vital to choose the right procedure. Some documents (payment orders, bank contracts, etc), can be enforced immediately by court order without going through the court procedure. If the debt can be contested by the debtor, then the creditor should choose the common procedure.</p>
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<p><b>Can a company be hired for the debt collection?</b></p> <p>Yes, it is possible. Some of such companies rely on staff with legal education and can be effective especially in simpler cases. Still, many clients prefer to assign to attorneys-at-law the collection of debts so to guarantee for themselves higher standard of legal services and personal approach.</p> <p>Regarding the data protection concerns, please note that there is a Personal Data Protection Act. The respective law provides requirements and rules for collection, use and disclosure</p>	<p><b>Can a company be hired for the debt collection?</b></p> <p>Yes, a company can be hired for debt collection. However, due to the lack of legal qualification, in case of civil procedures and court procedures they cannot ensure legal advising and protection. Moreover data protection concerns have to be taken into account. Recently the Data Protection Authority had imposed fines on debt collecting companies, due to infringing rules, for recording data of debtor's relatives, third parties and calling up and notifying them unlawfully.</p>	<p><b>Can a company be hired for the debt collection?</b></p> <p>Yes, there is a possibility to hire a collection agency. Certain companies are even specialized exclusively on the debt collection. The thing is that they usually do not have a satisfactory legal qualification.</p> <p>The data protection depends on the credibility of the debt collection company.</p>	<p><b>Can a company be hired for the debt collection?</b></p> <p>Yes, it is possible. Some companies even specialize exclusively on the debt collection. However, the staff of such companies usually does not have a satisfactory legal qualification. Hence, involvement of a qualified lawyer is preferred when collecting debts.</p> <p>The quality of the data protection and obeying the principles of confidentiality and business secret depends on the credibility of the debt collection company.</p>	<p><b>Can a company be hired for the debt collection?</b></p> <p>Yes, it is possible to hire Companies specialized in debt collection that will charge usually charge a fixed fee plus a success fee for the proceedings. The Creditor should have data protection concerns as the Debtor might file a lawsuit for processing of his personal data in an unauthorized manner.</p> <p>In Romania, debt collecting companies usually work for large companies, with many debts to collect. Smaller</p>
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of personal data, as well as measures for protection of personal data. The law provides the requirement individuals and entities who or which process with personal data to register as personal data administrators with the Commission for Personal Data Protection. The act also contains the possibility fines or pecuniary sanctions to be imposed in the event of breaches of the law.	Obviously, there is a complex legal framework addressing the issues of business secret and its protection. However, in practice it is quite difficult to sustain a burden of proof when claiming a breach of confidentiality duties or abuse of a business secret.	companies or individual persons with occasional debts usually work with lawyers.
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Experiences with out-of-court mediation	Experiences with out-of-court mediation	Experiences with out-of-court mediation	Experiences with out-of-court mediation	Experiences with out-of-court mediation
<p>Yes, we have experiences with out-of-court mediation, but it is not popular.</p> <p>It is regulated in the Mediation Act and Ordinance no 2 dated 15.03.2007 for the conditions and rules for approval of organization which teach mediators; for the requirements for education of mediators; for the rules for registration, deregistration and deletion of mediators from the Unified Register of the Mediators and for the procedural and ethical rules for conduct of the mediator. As it is evident, the legal regulation covers all the aspects of our of court mediation in Bulgaria, starting from education and requirements for teaching or</p>	<p>The two major methods in out-of-court settlement of disputes are mediation and alternative dispute resolution (ADR, arbitration).</p> <p>The principle of mediation is that the parties initiate the involvement of a third party in their dispute, who helps them find solution. The agreement will be reached by the will of the parties, only the will of the parties stands behind it.</p> <p>Mediation: parties initiate the involvement of a third party in their dispute. The agreement will be reached by the will of the parties.</p>	<p>The common mode of acting in the cases of debt collection is to negotiate with a debtor directly through a proxy. This is a first step when trying to resolve a problem and way of understanding better debtor's financial condition, willingness and possibilities to pay the debt.</p> <p>Moreover, settling out of the court and debt restructuring is partially regulated by Law on Mutual Financial Restructuring of Legal Entities (Official Gazette no. 36/2011), which establishes rules how debtor can reach an</p>	<p>Although there is a specific law regulating the institute of an out of court mediation, the use of a mediator in dispute settlements is rather rare in Slovakia. Usually, if parties of a dispute wish to avoid court proceedings, they try to make an out of court settlement with a support of their lawyers.</p>	<p>Members of this Firm are certified mediators. This procedure is not very well known in Romania as it became mandatory only at the beginning of 2013. It is becoming more well-known and used. Before 2013 the parties in a dispute did not elect to go through this procedure.</p>

becoming a mediator, all kinds of procedures for becoming a mediator, registration and deregistration, mediation procedures themselves, ethical rules, etc.

ADR: the dispute between the parties is examined by a person or a board and they make a decision. The decision does not have the same binding force as the judgment of the court.

Alternative dispute: resolutions are quick, cost-effective and the simplicity compared to the judicial way, their main disadvantage: the lack of the general binding force.

agreement with the creditors on the rescheduled mode of the payment.

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