



**UK European Consumer Centre**



# European Small Claims Procedure

What you should know

## UK European Consumer Centre

If all attempts to resolve your complaint have failed, the European Small Claims Procedure could be your next stage.

The intention of this guide is to provide information on how to make your claim through the European Small Claims Procedure.



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## Introduction

The following guide is for UK consumers who wish to make a claim against a trader based in a different European country. (Note that the UK counts as one country).

The European Small Claims Procedure can only be used for cross-border cases within the European Union (except Denmark).

Court should always be the last resort and it may weaken your case if you don't make every effort to resolve a complaint yourself before starting your claim. Before going to court, contact the trader to try to resolve your complaint. If this fails, consider using an Alternative Dispute Resolution scheme if appropriate.

For further advice and information on contacting a trader or on what action you can take, please contact the UK European Consumer Centre – [ecc@tsi.org.uk](mailto:ecc@tsi.org.uk)

If all attempts to resolve your complaint have failed, the European Small Claims Procedure could be your next step. To proceed with your claim, it needs to be under €5,000 and you will need to pay a fee to the court which you may get back if you win. You also need to be aware that there is no guarantee that the court will find in your favour. Evidence will be important; the judge's decision will be based on the relevant evidence provided by yourself and the trader that you are in dispute with.

## Step 1

Your first step in making a claim through the European Small Claims Procedure is to gather together the relevant forms needed to make your claim. These can be found on the European Commission's Judicial Atlas website:

[https://e-justice.europa.eu/content\\_small\\_claims\\_forms-177-en.do?clang=en](https://e-justice.europa.eu/content_small_claims_forms-177-en.do?clang=en)

- From this web page you will need to select 'Small Claims'
- On the next web page you need to click on 'Forms (1 to 4)'
- You will then need to select your country from the drop-down menu (United Kingdom) and click on the 'Find' button

**There are four forms involved with your claim, these are:**

**Form A** – claim form

**Form B** – request by the court to complete claim form

**Form C** – answer form

**Form D** – certificate concerning a judgement in the European Small Claims Procedure

You should print off copies of all the forms, but at this stage you are only concerned with Form A, which is the claim form.



## Step 2

When you provide your completed Form A to the courts, it needs to be filled in using the language where the court is based. As in most circumstances you will be sending this form to the UK courts it will need to be completed in English.

You will also need to know which court you will be submitting your claim to. In England and Wales it is your local County Court, in Scotland it will be the Sheriff Court and in Northern Ireland it will be the Small Claims Court.

### England and Wales

<http://hmctsfinder.justice.gov.uk/HMCTS/>

### Scotland

<http://www.scotcourts.gov.uk/>

### Northern Ireland

[www.courtsni.gov.uk/en-GB/ContactDetails/Pages/default.aspx](http://www.courtsni.gov.uk/en-GB/ContactDetails/Pages/default.aspx)



## Step 3

Form A requires you to provide some basic details.

In **Section 2** you will need to provide your personal details and in **Section 3** the details of who you are claiming against. It is important that these details are completed and are correct. The minimum amount of information you must include is name and address of yourself and the trader.

**Section 4** is entitled 'Jurisdiction', where you have to state on what grounds you consider the court to have jurisdiction. As a UK consumer making a claim against a trader in a different European country, the 'Jurisdiction' will normally be 4.2 – domicile of the consumer (your permanent residence).

**Section 5** is to ensure that your claim is of a cross-border nature and you will need to state the countries where you, the trader, and the court are based. (Note that the UK counts as one country).





**Section 6** is concerned with how you intend to pay the application fees. To find out how much the fees are, we would advise visiting the following web pages for up-to-date information:

**England and Wales**

<http://www.justice.gov.uk/courts/fees>

**Scotland**

<http://www.scotcourts.gov.uk/taking-action/court-fees>

**Northern Ireland**

<http://www.courtsni.gov.uk/en-GB/Services/CourtFees/Pages/CourtFees.aspx>

Please note that court fees are subject to change, so it is important to check before you proceed.





## Step 4

**Sections 7 and 8** are where you state what your claim is. It is important to remember that the European Small Claims Procedure can only deal with claims up to €5,000 excluding interest, expenses of court procedure etc.

In **Section 7** you will need to specify if you are claiming money or if this is a non-monetary claim, for example a repair or replacement of goods, a conclusion of a service to be provided. Your claim needs to be clear, accurate and, most importantly, reasonable.

**Section 8** now requires you to provide information that has led to this claim. **Section 8.1** is where you provide the reasons for the claim – what went wrong, how you were left disadvantaged?

Any claim that you would make through the claim form should include, where appropriate, any relevant supporting documents. If no evidence is provided it could affect your claim. These supporting documents could be contracts, receipts, letters and photos. Everything you provide must be relevant to your claim.



## Step 5

**Section 9** of the form is with regards to a certificate of judgement. The certificate of judgement is used when you want recognition and enforcement of your judgement in a different Member State to the one that made the judgement. Further details on this can be found in **Step 8**.

In **Section 10** you will sign the form to indicate that everything you have said is true and is given in good faith. You may have to pay a fee to the court before it will accept your claim. Details of your bank account or credit card number can be provided in the appendix to the claim form to enable the fee to be obtained.



## Step 6

Once the form is completed, you will either need to post it to the court you identified in **Section 1** or take it to them by hand. Remember to provide all forms and all supporting documents/evidence.

When the court receives your claim, one of three things will happen:

- 1) Your claim cannot be dealt with by the European Small Claims Procedure and will be passed on to the national procedure, unless you decide to withdraw your claim (the cost of going through the national system may be greater than that of the European Small Claims Procedure). Reasons why the European Small Claims Procedure may not be used could be that the claim is greater than €5,000 or it's not within the remit of the procedure.



2) The form may have been completed incorrectly, in which case the courts will send it back to you, allowing you 30 days, or another period set by the court, to complete/rectify the claim form.

3) If the form satisfies the requirements of the European Small Claims Procedure, the court will send the trader (defendant) a copy of your claim and a reply form. The trader will then decide if they want to defend the claim or not. They will have 30 days from receiving the form to provide their response.



## Step 7

Once the trader has received a copy of your claim they will take one of the following actions:

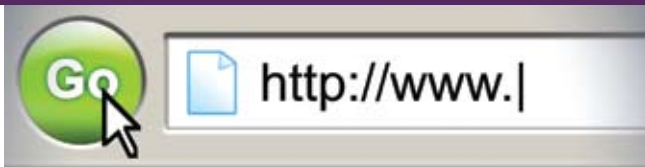
- Pay the amount you are asking for or offer to settle.
- Dispute your claim.
- Or they may do nothing.

If your claim is disputed, you will receive a copy of the defence form (the trader's reply). At this point you will be allowed to tell the court if you agree or disagree with the defence.

The judge will now consider the claim; it is possible that they may ask for more information and in some situations, they may summon you to court. You may be able to give evidence by videoconference or telephone.

The judge will give a decision within 30 days of any hearing or after having received all the required information.

A copy of the decision will be sent to all parties.



## Step 8

The judgement provided will be recognised and enforceable in all other Member States. Once a judgement has been provided, it is advisable to request a certificate concerning the judgement; this should be done at no extra cost.

In order for your claim to be enforced, you will need to send the enforcement authorities where the trader is based a copy of the judgement and a copy of the European Small Claims judgement certificate. When you send the documents, it will be advisable to send copies and keep the originals for your records. It may be advisable to send these by international recorded delivery, signed for. Please note it may also be necessary to provide a translation.

As the rules about enforcement vary from Member State to Member State, it would be worth checking the European Judicial Network's website for further information on enforcement procedure in other Member States:

[https://e-justice.europa.eu/content\\_enforcement\\_of\\_judgments-51-en.do](https://e-justice.europa.eu/content_enforcement_of_judgments-51-en.do)



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Please remember that the information in this leaflet can provide general guidance only. It is not intended as a full description of the law.

Sign up to the UK ECC newsletter, 'your update' through our website [www.ukecc.net](http://www.ukecc.net)

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