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# The Legal 500 Country Comparative Guides

## Slovakia

# LITIGATION

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This country-specific Q&A provides an overview of litigation laws and regulations applicable in Slovakia.

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## SLOVAKIA LITIGATION



### 1. What are the main methods of resolving disputes in your jurisdiction?

Dispute resolution methods within the jurisdiction of the Slovak jurisdiction mainly include:

- civil dispute resolution at the state civil courts and
- alternative dispute resolution before arbitration courts or ad hoc arbitrators or in out-of-court mediation procedure led by the licensed professional.

In contrary to the standard long lasting civil disputes due to multiple hearings, extensive evidence examination and numbers of procedural rebuttals, the jurisdiction also offers simplified dispute resolution of monetary claims through the dunning procedure resolved by one court for the whole territory of the State. This dunning procedure is suitable for undisputed commercial claims, and it brings significant savings on court fees due to its mostly automated nature.

The arbitration introduces very efficient timing to get to the trial and the final remedy may be achieved in one instance procedure, that is however imbalanced by the higher court fees.

The mediation procedure might be led by the state licensed mediator only in case an agreement on mediation is agreed by both parties and is commonly used for family matters, minor claims or collective bargaining.

### 2. What are the main procedural rules governing litigation in your jurisdiction?

Main procedural rules governing litigation in Slovak jurisdiction are among others the adversarial principle, principle of formal truth and judicial concentration. The adversarial principle is an essential part of the right to a fair trial (i. e. legitimate expectations of parties that the dispute will be resolved in accordance with applicable laws and established judicial decision-making practice)

and means that both parties to the proceedings must be given the opportunity to acquaint themselves with the views and evidence submitted to the court by the other party to influence the court's decision. The civil proceeding in Slovak jurisdiction is also governed by the principle of formal truth, which means that the court bases its decision solely on the evidence proposed by the parties to the dispute. Exceptions to the principle of formal truth are allowed provided the protection of the weaker party is necessary (e.g. consumers, employees). Judicial concentration is a principle adopted only recently and allows the court to prohibit new arguments and submission of further evidence by the parties (or not consider arguments and/or evidence it deems that was submitted by the parties to the dispute late) if such arguments and/or evidence could have been provided in earlier stages of the proceeding. Slovak litigation includes also several additional procedural principles in particular the publicity principle, principle on free evaluation of evidence, economy principle, prohibition of justice denial, principle of uniform application of EU laws and equal treatment principle.

### 3. What is the structure and organisation of local courts dealing with claims in your jurisdiction? What is the final court of appeal?

The judicial power is being performed by civil (state) courts and the Constitutional Court of the Slovak Republic.

The judicial structure of civil courts include:

- 36 district or municipal (per region of Bratislava and Košice) courts – mostly acting as the first level civil courts;
- 8 regional courts – mostly acting as the appeal civil courts;
- Supreme Court of the Slovak Republic.

On June 1st 2023, judicial map reform came into effect that significantly changed the number of civil courts

(originally there were 54 district courts) to reach its goals with emphasis on functional specialization of the judges on first instance courts including the quality improvement of decision making standards. District courts in Bratislava and Košice have been consolidated to municipal courts (there will be 4 municipal courts in Bratislava instead of 5 district courts and 1 municipal court in Košice instead of 3 district courts).

Local jurisdiction also includes the Supreme Administrative Court of the Slovak Republic authorized to resolve complex administrative disputes on top level and the Specialized Criminal Court of the Slovak Republic dealing with the most complex and high-profile criminal cases within the Slovak jurisdiction.

#### **4. How long does it typically take from commencing proceedings to get to trial in your jurisdiction?**

Typically, the first hearing of preliminary hearing before court is summoned within 6 to 12 months from the submission of motion to start the proceeding. Usually, courts with jurisdiction over larger counties (especially in the capital city of Bratislava) need longer time span due to heavier workload (1 and in some cases even 2 years from the submission).

#### **5. Are hearings held in public and are documents filed at court available to the public in your jurisdiction? Are there any exceptions?**

The hearings are fundamentally available to the public; the public could be excluded from the hearing (whether for part or for the full course) in specific cases e. g. protection of state secrecy, protection of individual privacy and protection of trade (business or commercial) secret.

The documents at the court file per each case are mostly unavailable to the public and are available only to parties to the dispute (same applies for documents published in electronic court file – online tool accessible to dispute parties). However, the court (its chairman) can approve the access of third person to the court file in specific and rare situations.

#### **6. What, if any, are the relevant limitation periods in your jurisdiction?**

Relevant limitation periods differ from the nature of legal relationship – whether civil or commercial.

Under Civil Code, the general limitation period is 3 (three) years. However, the limitation period for right to damage compensation is 2 (two) years from the moment the affected party became aware of the damage and the person responsible for damage but no longer than 3 (three) years from occurrence of damage and 10 (ten) years if the damage was caused deliberately. The right to unjust enrichment reimbursement has limitation of 2 (two) years from the moment the affected party became aware of the enrichment and the person which became enriched, however not exceeding 3 (three) years following the occurrence of enrichment and 10 (ten) years if caused deliberately.

In commercial relationships, the general limitation period is 4 (four) years. The right to damage recovery shall lapse from the moment the affected party has become aware of the damage and responsible party, however it shall elapse upon 10 (ten) years from breach of obligation.

Provided the right was granted by court decision or the debtor acknowledged the debt in writing, the limitation period is 10 (ten) years.

#### **7. What, if any, are the pre-action conduct requirements in your jurisdiction and what, if any, are the consequences of non-compliance?**

Mostly, no pre-action conduct is required to initiate the dispute before authorized court.

In specific cases the pre-action conducts are required if parties pre-agreed such conduct before the dispute such as dispute adjudication board (DAB) clauses which are common in commercial arbitrations.

Local jurisdiction puts pre-action conduct requirement only with respect to disputes raised against the consumers (but these are considered as non-commercial disputes).

In case of non-observance of the pre-action conduct the plaintiff is in high risk of procedural failure – court may dismiss the lawsuit.

#### **8. How are proceedings commenced in your jurisdiction? Is service necessary and, if so, is this done by the court (or its agent) or by the parties?**

The proceedings are commenced upon filing the motion to court by plaintiff. After the plaintiff pays the court fee,

the court shall deliver the motion to the defendant with request for statement of defence. All motions and statements made by parties are delivered to the counter parties via court either electronically or by post, if such party does not dispose of data-box (only legal entities are obliged to activate databox).

If the party is represented by attorney, all communication is delivered through such attorney (data-box is mandatory for attorneys).

### 9. How does the court determine whether it has jurisdiction over a claim in your jurisdiction?

The basic legal act that determines which court is authorized to resolve the dispute with foreign aspect is act no. 97/1963 Coll. on private and procedural international law. The provisions of this act apply only if the directly applicable laws of the European Union or an international agreement by which the Slovak Republic is bound do not stipulate otherwise.

The authorization of the state courts to resolve the dispute between the parties is being assessed by the court ex-officio at any stage of the dispute.

The Regulation No. 1215/2012 of the European Parliament and the Council on jurisdiction and the recognition and the enforcement in civil and commercial matters fully applies to local jurisdiction which determines the authorization of Slovak court to resolve the dispute if the dispute is between the parties from EU member states.

In case of alternative dispute resolution before court of arbitration, local jurisdiction determines that even if the lawsuit is filed to non-authorized court of arbitration, the dispute will be finally resolved by such body if defendant does not object its authorization at his first procedural motion (response to lawsuit) – tacit validation of the arbitral agreement.

### 10. How does the court determine which law governs the claims in your jurisdiction?

The basic legal act that determines which law governs the claims with foreign aspect is act no. 97/1963 Coll. on private and procedural international law. The provisions of this act apply only if the directly applicable laws of the European Union or an international agreement by which the Slovak Republic is bound do not stipulate otherwise.

Directly applicable laws of the EU are Regulation (EC) No 593/2008 (Rome I.) which regulates applicable law of EU

member states in contractual obligations and Regulation (EC) no. 864/2007 (Rome II.) which regulates applicable law in non-contractual obligations.

The regulation of act no. 97/1963 Coll. shall be used only in absence of EU or international framework.

### 11. In what circumstances, if any, can claims be disposed of without a full trial in your jurisdiction?

If a monetary claim can be evidenced by an invoice or other relevant documentation, creditor can initiate dunning procedure before District Court Banská Bystrica, in which the court will issue payment order (summary judgement) without giving the debtor prior notice. Debtor is then entitled to dispute the claim within 15 days following delivery of payment order, otherwise the payment order shall become enforceable.

In a standard court proceeding (subject matter of which is fulfilment of an obligation) the court can issue judgement for default provided the defendant fails to file statement of defence to claim within time period set by court or if the defendant fails to attend the court hearing to which the defendant was demonstrably summoned, and no justifiable grounds exist for absence. In such case, the court will issue judgment for default on basis of allegations and evidence submitted by the claimant. Judgement for default cannot be issued against a consumer.

Court can also issue injunction, which replaces the final decision in subject matter of proceeding, where it is susceptible with subject matter of the case. These preliminary injunctions will be usually claims to refrain from a specific activity.

### 12. What, if any, are the main types of interim remedies available in your jurisdiction?

There are two main types of interim judgements: precautionary measure and preliminary measure.

As a precautionary measure, the court may establish a lien on the debtor's property or rights to secure the creditor's monetary claim if there is a fear that the enforcement of judgement can be endangered. Precautionary measures have precedence on preliminary measures, which can only be issued provided the intended purpose cannot be achieved by a precautionary measure.

Preliminary measure may be issued by court provided if

the situation needs to be temporarily regulated without delay or if there is a fear that execution of judgement can be endangered.

Provided the court issues preliminary measure or precautionary measure, it is delivered to the defendant and is immediately enforceable, however the defendant can appeal the decision within 15 days. Provided the conditions that formed the reasoning to issue preliminary or precautionary judgment cease to exist during court proceeding, the defendant may always apply for its annulment.

Extraordinary appeal does not have suspensive effect on the decision of appellate court that is subject of extraordinary appeal. However, the appellant may request the Supreme Court to grant suspensive effect of such extraordinary appeal, if there are reasons worthy of special consideration.

Claimant may also request granting of suspensive effect of administrative action in proceeding against a decision of a public authority provided immediate execution of decision of public authority can cause serious harm, economic or financial damage or if the decision of public authority is based on binding legal act of EU whose validity is disputed.

### **13. After a claim has been commenced, what written documents must (or can) the parties submit in your jurisdiction? What is the usual timetable?**

The standard structure of procedural motions to be produced by the parties are:

- plaintiff's action (lawsuit or statement of claim);
- defendant's response (statement of defence);
- plaintiff's rebuttal;
- defendant's rejoinder.

The court ordinary grants 10 to 15 days to the party to produce the respective response.

There are no limitations on further motions, however, the authorized court resolving the dispute will deliver further motions to the counterparty to take note of such motion without requesting another counter-motion.

### **14. What, if any, are the rules for disclosure of documents in your jurisdiction? Are there any exceptions (e.g.**

### **on grounds of privilege, confidentiality or public interest)?**

Third parties are not allowed for disclosure of documents held in the court files. Judgements issued in court proceedings, which are anonymized, are published. Moreover, information on court hearings is available to public on courts web pages, but only information on court, date and time, subject matter of proceeding and file reference number are available. Identification of parties to the proceeding is not public.

Disclosure of some documents is restricted under the Act on the Protection of Classified Information which restricts the possibility of a party to become acquainted with parts of file containing classified information due to the protection of the public interest.

### **15. How is witness evidence dealt with in your jurisdiction (and in particular, do witnesses give oral and/or written evidence and what, if any, are the rules on cross-examination)? Are depositions permitted?**

Fundamentally, the witness evidence is performed in person at the court hearing. If there are specific circumstances limiting the examination of the witness, the court (due to economy of the procedure) may exceptionally order witness to reply to given questions in writing.

The examination of the witness starts with court requesting the witness to describe everything what he knows about matter being subject to the court proceeding; the court is entitled to ask specific questions. After the court examination, the party that proposed the witness examination can ask the witness with its questions and after that there is the room for the counter party.

Suggestive, guiding, misleading, deceptive, and irrelevant questions are prohibited and could be challenged by counter party.

Depositions are very rare in Slovak litigation and could be found by court as problematic for authenticity aspect. However, litigation rules do not explicitly prohibit them. The courts prefer to examine witnesses personally at court hearings to record an authentic testimony (could be subject to criminal consequences if falsely provided at the court hearing).

**16. Is expert evidence permitted in your jurisdiction? If so, how is it dealt with (and in particular, are experts appointed by the court or the parties, and what duties do they owe)?**

Expert opinions are one of the major and recognized means of evidence in civil litigation. Expert opinions may be provided as private expert opinion which is secured and paid for by the party to the proceeding presenting such expert opinion as evidence to support its position or can be secured by the court. If private expert opinion includes a statement by the expert that the expert is aware of the consequences of making a false opinion, private expert opinion is considered as if it had been ordered by a court. Provided the conclusions of an expert opinion need to be clarified, the expert can be summoned to attend court hearing and explain the conclusions to the court and provide answers to questions.

**17. Can final and interim decisions be appealed in your jurisdiction? If so, to which court(s) and within what timescale?**

The interim decisions (e. g. injunctions – preliminary measures and security measures) are standardly subject to appeal before the appeal court. The interim decisions could cease to exist by expiration of time for which it has been issued and also could be revoked by the court if the reason for which the decision has been issued no longer exists.

Final decisions are subject to revision by Supreme Court of Slovak republic (extraordinary remedies may be filed only on limited grounds) and extraordinary appeal shall be submitted within 2 months through court of first instance, which will subsequently deliver whole file to Supreme court.

**18. What are the rules governing enforcement of foreign judgments in your jurisdiction?**

In the conditions of the Slovak legal system, we distinguish several regimes of recognition of enforceability of a foreign decision, depending on the nature of the foreign judgement and whether it was issued in an EU member state or a third country.

If foreign judgment was issued in EU member state, it depends whether it was issued by a general court or arbitration court. Foreign arbitration award issued within the EU can be enforced under the Convention on the

Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention) from 1958. Judgement issued by civil court in other member state shall be enforced under the Regulation no. 805/2004 on European Enforcement Order.

Provided foreign judgement was issued under jurisdiction of third country, a regime under bilateral treaty or a regime under an international treaty is possible for the recognition of such judgement. Provided procedure under bilateral or a multilateral international agreement shall not be possible, the court shall proceed in accordance with the provisions of Act no. 97/1963 Coll. on private and procedural international law.

Enforcing a foreign judgement in Slovak republic by bailiff requires prior recognition of a foreign decision as enforceable in the territory of Slovakia. In general, enforcement procedure of foreign judgement requires translation by sworn translator to Slovak, confirmation of enforceability under jurisdiction of the court that issued the judgement and proof of delivery of such judgement to the obliged party.

**19. Can the costs of litigation (e.g. court costs, as well as the parties' costs of instructing lawyers, experts and other professionals) be recovered from the other side in your jurisdiction?**

Slovak legislation provides the instruments for litigation costs recovery. With respect to recovery we can identify following principles determining extent of the recovery such as:

- principle of success – the successful party shall request the recovery of the litigation costs (such as court fees, representation costs and other necessary costs inducted by the dispute);
- principle of cause – the party which caused the costs shall bear them in full;

fairness principle – the court may decide on no recovery in case there are exceptional circumstances causing the gross disparity between the parties.

**20. What, if any, are the collective redress (e.g. class action) mechanisms in your jurisdiction?**

A class action under Slovak law is one motion to start court proceeding which consists of at least ten (10) submissions delivered to the same court by the same

entity in one day. Class action is subject to the same court fee as standard filing, however is subject to additional administrative fee of 1,- EUR per each claimant.

Provided more than ten (10) claimants appear on one side of the action the court may decide that only one entity (one individual claimant) shall act on behalf of all claimants. The court then shall instruct the other claimant that it will not to serve them other decisions and summons to the hearings (except the application initiating the proceedings and amendments to application).

In a class action, the procedural act of one of the claimants also applies to the others. Also the judgment applies to each claimant.

### **21. What, if any, are the mechanisms for joining third parties to ongoing proceedings and/or consolidating two sets of proceedings in your jurisdiction?**

Local jurisdiction provides opportunity for third party to join the ongoing proceeding:

as another claimant solely based on original plaintiff's procedural proposal and future claimant's approval with joining the procedure.

as another defendant solely based on plaintiff's procedural proposal even without affected party's approval with joining the procedure.

The third party may join the procedure even without plaintiff's proposal and/or approval through specific procedural position - intervention to the benefit of respective dispute party. The intervention initiates by filing intervention notification to the respective court and stating the relevant reason of intervening person proving relevant interest in result of the dispute.

### **22. Are third parties allowed to fund litigation in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?**

Funding of court litigations is not regulated by Slovak law; therefore it can be done only on basis of private-law agreement. So, any party providing funding does not obtain any special rights with respect to proceeding, nor is a party to the proceeding, therefore it is not liable for costs incurred by failure in the litigation.

### **23. What has been the impact of the COVID-19 pandemic on litigation in your jurisdiction?**

The COVID years have brought great negative impact to the course of commercial litigation when considering the delay with resolving the commercial matters. In the initial stage of COVID crisis the courts have been cancelling the court hearings and minimized the personal contact with the parties.

Fortunately, the Slovak judicial environment, already before the COVID crisis, has developed certain level of simplification and digitalization of simple disputes resolving through the dunning procedure before District Court in Banská Bystrica.

On the other hand, the regular civil trials have been delayed due to fact that courts were missing the legal instruments to perform hearings through on-line tools and retained to resolve the matters at personal hearings.

Moreover, due to limited access to courts and authorities caused by local COVID lockdowns, local legislator adopted specific ad hoc prolongation of limitation periods that provided affected parties room to deal with the negative impact on their rights.

### **24. What is the main advantage and the main disadvantage of litigating international commercial disputes in your jurisdiction?**

Contracting parties, if they include arbitration clause granting jurisdiction of Slovak arbitration court, will prefer, in general, lower costs of arbitration in Slovakia, as well as institutionalized arbitration (ad hoc arbitration is not allowed) and possibility to use accelerated procedure before some Slovak arbitration courts (provided claimant pays increased fee and costs, the court will issue arbitration judgement in 4 months, or even in 2 months).

The main disadvantage the parties should consider is inability to hold hearings remotely.

### **25. What is the most likely growth area for commercial disputes in your jurisdiction for the next 5 years?**

We have already registered growth in commercial disputes aimed at protection of intellectual property and crypto currency disputes (investment failures and crypto currency frauds) which could be interesting area of

short-term growth for upcoming years.

Nevertheless, we need to emphasize that recent events in the world such as the conflict in Ukraine causing unavailability of raw materials, inflation rate and consumer price index rise could heavily jeopardize real estate development area what could emerge massive extent of price revisiting disputes for constructors and real-estate developers.

**26. What, if any, will be the impact of technology on commercial litigation in your jurisdiction in the next 5 years?**

Technology has significant impact on speeding up and simplifying commercial litigation in Slovakia. Most important improvements include introducing of electronic court files as well as delivery of court documents to electronic databoxes, which prevented obstructions of some parties from retrieving court consignments in the past.

The room for improvement and much expected changes that would be welcomed in the next years will be complete digitalization of court files as well as enabling on-line court hearings, which are not available at the moment.

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