

Guide to litigation in Slovakia

In this guide, we aim to provide you with the most important information to help you in your preparation for a dispute and guide you through the process of litigation before Slovak courts.

How to prepare for litigation?

For a successful litigation, we strongly recommend thorough preparation, encompassing the following key steps:

» Collecting potential evidence and proper documentation:

- ▶ It is important to collect documentation related to the contentious event/contract.
- ▶ Ensure significant arrangements between the parties are documented in writing (oral agreements, at the very least, should be evidenced by email communication) so that they can be effectively proven in case of a dispute.
- ▶ All relevant documentation may be important in an upcoming dispute.

» Exercising due care in submitting any statements or declarations:

- ▶ Be cautious when submitting statements or declarations to prevent them from being used against you by the opposing party during proceedings.

» Legal risk-reward analysis:

Before the case goes to court, it is also recommended to carry out a legal risk-reward analysis of the case.

- ▶ Furnish your lawyer with **all relevant information and documents regarding the existing situation**, including seemingly insignificant details, as they may contribute to your future success;
- ▶ In cases involving, e.g., complex technical issues requiring expertise, a legal assessment may require **further clarification from an expert in a specific field** (e.g., determining property value, technical faults of a machine or financial valuation of damage incurred, etc.).

Pre-trial analysis allows us to make recommendations and determine whether additional steps at the pretrial stage should be taken, such as sending a final call for payment or inviting the other party to negotiate an out-of-court settlement.

Additionally, before filing a legal action, we can also calculate estimated costs concerning court fees and legal costs.

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“Even in the pre-litigation phase, it is highly recommended to seek legal advice and consult with a lawyer on every step, including those that may seem insignificant.”

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Is it possible to secure the claim before the final court decision?

Litigation in state courts in Slovakia typically takes a relatively long time, usually between 12 to 18 months in simple cases at first instance. However, if there is a concern that the future enforcement of a claim might be jeopardised, either due to an urgent need to adjust existing conditions or a fear that the execution will be compromised, the court has the power to protect the plaintiff's interests before or during the proceedings by granting an **interim injunction** to secure the claim **or by granting a security measure**.

✔ Interim injunction

When considering an interim injunction, the court conducts a preliminary assessment of the evidence to determine whether it substantiates the statement of claim. Typically, the opposing party remains unaware that such a motion has been filed, as it is not automatically served to the opponent. It is highly recommended to stay vigilant in case there is a suspicion that the opposing party intends to file a motion for an interim injunction. In such instances, consulting with your lawyer can be beneficial, as they will routinely screen the court files preventively and assist you in defending against the motion in a timely manner.



An interim injunction may entail specific orders for a party to:

- a) deposit a sum of money or a designated item into the custody of the court until the final judgment in the case is issued,
- b) refrain from disposing of certain things or rights until the final judgment in the case is issued,
- c) provide at least part of the remuneration in proceedings related to the duration of the employment relationship when the claimant is not working for serious reasons; etc.

In other types of cases, the court may grant an interim injunction requiring the defendant to undertake, abstain from, or endure certain actions.

✔ Security measure

The security measure can be regarded as a so-called "judicial lien on debtor's property".

On the creditor's application, the court has the authority to establish a lien on the debtor's property, rights, or other assets to secure the creditor's monetary claim when there is a concern that the execution may be jeopardized. Consequently, its essence lies in the capability to secure the monetary claim of the creditor, i.e. the claimant of the security measure, in future enforcement proceedings.

However, enforcement of the lien can only occur after the claim has been duly adjudicated by a court decision in a standard civil procedure.

Is it possible to pursue a monetary claim outside the standard procedure (is there a faster way)?

✔ Payment order

Civil procedural law makes it possible to seek payment of a monetary claim without resorting to traditional litigation, allowing for a quicker resolution before a physical court appearance. This is achieved through a simplified electronic application for a payment order, accompanied by a lower-than-standard court fee. The payment order requires the defendant to settle the monetary claim in full or in part and to cover the associated proceeding costs within 15 days of its delivery- Alternatively, the defendant may file an objection to the order within the same timeframe.

If the necessary procedural conditions are met, and there are no grounds for refusing the application, the court is obliged to issue the payment order within 10 working days, although in practice, this usually takes around 30 days.

The defendant may file an objection to the payment order, outlining the grounds for their opposition. The filing of an objection automatically annuls the payment order unless the court rejects the objection based on substantial or procedural reasons. In the event of the payment order being revoked, standard civil procedure, often involving a personal hearing, will be initiated.

Helpful to know if you are or may be involved in a dispute

✓ Types of claims

Slovak courts handle four main types of civil claims:

- » **For payment:** This type of claim results in a judgment that awards the entitled participant the amounts due, such as those arising from invoices for services rendered.
- » **For the arrangement of the rights and obligations:** This claim addresses the need to organise the rights and obligations of the parties, particularly when a specific arrangement is dictated by special regulation (e.g. settlement of co-ownership shares).
- » **For determining rights:** These claims are pursued to ascertain whether a right exists when there is a compelling legitimate interest to do so (e.g. determination of ownership of a property).
- » **For the establishment of a legal fact:** This type of claim is pursued in cases where it is mandated by special regulation, such as determining the invalidity of the termination of employment relationship or filing an action for a declaration that a resolution of the general meeting of a company is null and void.

✓ Court jurisdiction / venue

Typically, the case is heard by the court with jurisdiction over the district in which the defendant is domiciled. However, exceptions to this rule which may arise from statutory provisions, such as cases involving immovable property. Currently, it is not possible to agree on a different litigation venue through a contractual agreement.

✓ Court costs

Generally, a court fee is required for filing a legal action, unless the action is exempt from payment. The court fee amount is determined by the fee schedule and is calculated either as a percentage of the amount in dispute or as a fixed amount.

✓ Usual proceedings step by step

- » **Final request to the other party:** Before a legal action is filed, a final notice requesting specific performance or monetary payment (e.g. final call for payment) may be directed to the other party, although it is not obligatory. This stage serves as an opportunity for out-of-court settlement negotiations or mediation. Opting for an out-of-court settlement is optional but may have an impact on the court's subsequent decision regarding court fees.
- » **Claim:** The claimant, when filing a claim with the court, sets out the factual basis for the claim and presents arguments and evidence.
- » **The written phase of the dispute:** Once the claim is submitted, the court will serve a copy of the claim to the defendant, **instructing the defendant to file a written statement of defence** to the claim. The defendant is required to set out the essential facts in their defence, attach the relevant documents referred to in the statement of defence, and identify any supporting evidence.

If the defendant fails to respond within the time limit set by the court, the court may issue a **default judgment**. However, this can only happen if the claimant has requested the court to order the defendant to fulfil a specific obligation (e.g., pay a sum of money, perform an action, refrain from doing something or endure something). **For this reason - after being served with a copy of a court claim - we highly recommend to consult your lawyer promptly.**

If the defendant rejects the claim, the court will serve the defendant's statement of defence to the claimant, providing an opportunity to submit a statement within a court-defined timeframe. The court will then serve the claimant's statement to the defendant, allowing them to respond within a set period of time.

» **Pre-trial hearing:** After all written statements have been filed, the court may schedule a pre-trial hearing.

At the pre-trial hearing, the court will summon the involved parties, their representatives or any other individuals who may contribute to the purpose of the pre-trial hearing. The court will verify whether procedural conditions are met and, if necessary, take measures to address any identified procedural defects. If possible and effective, the court will attempt to resolve the dispute amicably or, when appropriate, recommend the parties to settle the dispute through mediation. It's worth noting that mediation is rarely an effective solution for disputes in Slovakia.

If the dispute cannot be resolved amicably, the court shall compel the parties to undertake duties necessary to fulfil the purpose of the proceedings. Furthermore, the court will identify disputed and undisputed factual allegations between the parties, determine which evidence it will consider, and provide a preliminary legal assessment of the case along with the expected date of the hearing. While it is possible for the court to decide on the merits of the case at the pre-trial hearing, this occurrence is very rare in practice.

» **Main (oral) proceedings:** The next stage of the proceedings usually involves the main hearings (trial).

Evidence, including witness examinations if requested, is commonly presented during these hearings.

► **Evidence taking**

In settling the dispute, the court relies on evidence presented by the parties, which may include documents, witness statements, expert witness testimonies, inspection or hearing of the parties.

The general rule dictates that the party seeking legal effects from a given fact must prove that fact. Therefore, any argument relevant to the case should be supported by relevant evidence.

Documents are generally considered the most reliable source of evidence.

In order to use a document as evidence, it may be necessary to obtain an appropriate verification of its authenticity (e.g. for foreign official documents, the provision of a so-called apostille). Foreign documents usually need translation into Slovak by a sworn translator.

Throughout the proceedings, the court may require a party to submit additional documents.

► **What does the witness testimony or hearing of the parties look like?**

The format of the witness testimony depends on the court's decision and may occur either in person (more common) or in writing. In the case of an in-person hearing, the summoned individual typically has the initial opportunity to freely share their knowledge about the case. If the person is not fluent in Slovak, arrangements must be made in advance for a sworn translator. Following the witness's statement, the court, the parties, and, with the court's consent, other individuals present at the hearing may ask questions.

► **What is an expert witness testimony?**

When specialised information is required (e.g. about the breakdown of a machine or other technical faults), the court may summon an **expert witness to prepare a professional opinion**. Conclusions drawn in such opinions play an important role in the case. The court may instruct a party to appear before the expert, submit necessary items, provide required explanations, or undergo a medical examination.



» **Judgement:** After evidence is presented, and the facts and legal questions of the case are clarified, the court closes the hearing stage and issues a judgment.

» **Is it possible to change the decisions issued by the court?**

Slovak civil courts proceedings are two-instance proceedings, granting each party the right to request a review of a first-instance court ruling by the second-instance court.

This right can be exercised through:

- ▶ **A challenge** (an appeal against an order), which must be filed within 15 days from the date of service of the order containing a substantive procedural decision of the court; and
- ▶ **An appeal** (against a judgement), which must, as a rule, be lodged within 15 days from the date of service of the judgement.

After the case has undergone review by two court instances (general and appellate court), it becomes possible to pursue so-called extraordinary remedies, which include filing an action for a repeated trial or an extraordinary appeal to the Slovak Supreme Court. However, this option is limited to specific situations.

» **Are there any costs other than the law firm's fees that need to be incurred?**

If you file a legal action or appeal (or challenge), you will be required to pay a court fee, which is deposited into the court's bank account. Generally, the court fee is 6% of the value of the matter at issue (lower for a payment order) and is capped at 33.000 EUR. However, in some cases, fixed fees may apply, regulated by relevant provisions.

Throughout the proceedings, the court may also order payment of additional fees related to the litigation, such as expert witness fees, translator's fees, etc.

✔ **Can the parties' costs be recovered?**

In settling the dispute, the court also considers whether and to whom a party should reimburse the costs of the proceedings. The list of possible litigation costs to be awarded is extensive, encompassing various costs such as the fee for filing a statement of claim, the fee for filing an appeal, the costs of expert witness testimony, translator services, transportation to court, or the costs related to interim injunction proceedings.

The reimbursement of proceedings costs also includes the reimbursement of attorney's fees, calculated based on a flat-rate determined by the value of the dispute and the number of standard legal steps taken by the lawyer. Further details are provided in the decree of the Ministry of Justice on fees for attorneys.

The court typically awards legal costs based on the outcome of the case, with the prevailing party receiving the full reimbursement of their proceeding costs. However, the court may refrain from awarding costs in exceptional cases where there are reasons of special consideration.

✔ **Exemption from court fee**

There is a possibility of being exempted from the court fee in specific situations.



Selected special types of proceedings

The Slovak civil procedure includes specific rules for certain special categories of disputes, such as individual labour law disputes, consumer disputes or antidiscrimination disputes.

These special proceedings differ from ordinary disputes in several ways:

✓ Evidence

The court has the authority to consider evidence not proposed by the parties if necessary for deciding the case. The court may obtain or secure such evidence even without a motion. The claimant may submit or identify all the facts and evidence to prove their allegations before the judgment on the merits is rendered.

✓ Judicial concentration

The provisions on judicial concentration and statutory concentration do not apply in these special types of proceedings.

Is it worth choosing an alternative dispute resolution?

In analysing your case, we look for the most optimal solutions tailored to your needs and one potential avenue is alternative dispute resolution (ADR). Alternatives to litigation in court include negotiation, mediation, and arbitration.

✓ Negotiation

During negotiations, parties attempt to find a mutually satisfactory resolution to an existing dispute, often by making concessions to each other. Involving professional attorneys in negotiations not only provides support in drafting a precise agreement but also allows for the inclusion of appropriate safeguards to facilitate the enforceability of the agreed settlement.

✓ Mediation

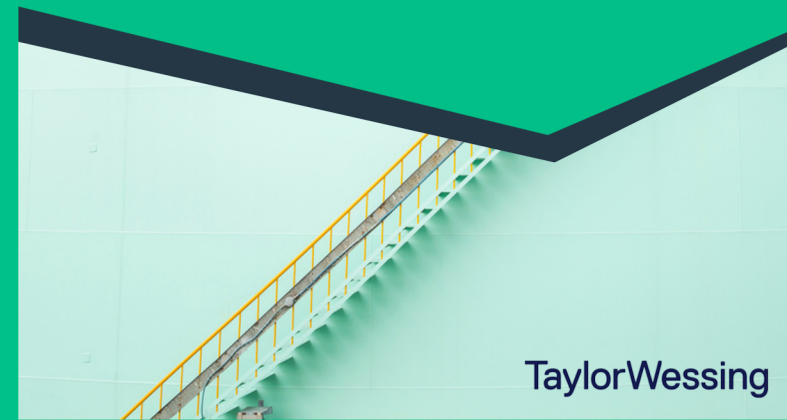
In mediation, an impartial third party - the mediator - facilitates communication between the parties, aiding in their agreement on the terms of a possible compromise. There are many mediation centres in Slovakia. Our experienced team can assist not only at the stage of legal representation during mediation proceedings but also in selecting a suitable mediation centre. Additionally, a common court may refer a case to mediation at any stage of the proceedings.

✓ Arbitration

This method is similar to court proceedings before state courts (usually, has only one instance). However, a dispute can be referred to arbitration only if there is an appropriate provision in the contract (arbitration clause) or a separate agreement is concluded after the dispute has arisen. By opting for arbitration, the parties agree to appoint one or more arbitrators who, after hearing the case, issue an award. The award of an arbitration court may be affirmed or set aside by a state court in a special procedure. There are few arbitration centres in Slovakia. Our managing partner, Andrej Leontiev, serves as an arbitrator at some of them. For local disputes involving an arbitration clause, we usually recommend the Court of Arbitration of the Slovak Bar Association.

You can find more information about arbitration, including permanent arbitration centres worldwide, at:

- <https://www.taylorwessing.com/en/insights-and-events/insights/2022/05/arbitration-toolbox>
- <https://www.taylorwessing.com/en/campaigns/local/the-arbitration-view>



✔ Alternative dispute resolution regarding a domain name

Alternative dispute resolution (ADR) for domain name resolves disputes between domain holders and third parties who, as complainants, initiate the proceedings in order to protect their rights (often related to intellectual property rights and typically trademark rights).

Disputes are resolved remotely, primarily through electronic means, followed by an **expert opinion**. In alignment with the general principles of alternative dispute resolution (not only for domain disputes), this type of dispute resolution does not result in a traditional decision, but rather an expert's opinion. The expert's opinion is self-executing, without the need for compulsory execution, and the relevant change in the domain name registry is managed by the domain authority to ensure its "execution". This self-execution is possible (and effective) because ADR for domain names only allows claims for the cancellation or transfer of a domain.

You can find more information about the "Alternative Dispute Resolution Regarding A Domain Name Centre" and the resolution of domain disputes through this Centre at:

- <https://adr.eisionline.org/sk/>

The list of qualified experts handling disputes under the "Alternative Dispute Resolution Regarding A Domain Name" rules includes our managing partner Radovan Pala and partner Ján Lazur.

Taylor Wessing will be happy to advise which method best suits your specific circumstances.

Your key contacts



Please select the lawyer whose online CV you wish to view.



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