Which country's court is responsible?

Eslovenia

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

In Slovenia, local courts (okrajna sodišča) and district courts (okrožna sodišča) have jurisdiction over civil disputes for claims at the first instance. They have the jurisdiction to adjudicate on all typical civil law matters and disputes (award of compensation, property, family disputes, etc.). The demarcation of jurisdiction between local and district courts is dealt with below.

By contrast, only district courts have the jurisdiction to hear and adjudicate on cases relating to commercial law at the first instance. Commercial disputes are those in which each of the parties in a civil case is a company, institution (including public institutions), a cooperative, the state or a self-governing local community. Commercial disputes are also those relating to legal relationships between sole traders that originate from their gainful activity, and a company, institution (including public institutions), cooperative, the state or a self-governing local community.

The law assigns jurisdiction for labour disputes to labour courts (delovna sodišča) and social courts (socialna sodišča), even if the case involves a civil dispute. Labour disputes involve relations between an employer and employee that constitute violation of the rights and obligations arising from employment relations. Labour courts have jurisdiction to adjudicate on individual labour disputes (disputes arising from employment relations, disputes relating to property rights relating to such relations), collective labour disputes (disputes in which one of the parties is usually a trade union or other institutional form of employee representation), disputes relating to the legality of strikes, and disputes relating to employee rights to employee participation in company management), which is enshrined in Slovenian law. Social courts adjudicate on rights arising from disability and pension insurance, health insurance and unemployment insurance, and on the right to family and social benefits.

As the issue of jurisdiction only arises when an action or claim has been submitted to a court (before a court hears and adjudicates upon a case, it first determines whether the case comes under its jurisdiction), it is recommended that one first consults a lawyer to avoid undue delay. A court must always pay attention in any procedure it carries out to the issue of its jurisdiction, and ensure that no other body has jurisdiction over a case (e.g. an administrative body). If it finds that this is indeed the case, a court muss dismiss the claimant's claim; this results in unnecessary loss of time and increased costs for the party.

Information on the organisation, location and jurisdiction of courts can also be found on the official website of the Supreme Court of the Republic of Slovenia (Vrhovno sodišče Republike Slovenije): http://www.sodisce.si/

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

An action may be filed at any court in the Republic of Slovenia, but anyone filing an action should pay attention to the jurisdiction ratione materiae (which court has jurisdiction over the content of the case) and territorial jurisdiction. Basic information, including the addresses of all local and district courts in Slovenia, is available on the website of the Supreme Court of the Republic of Slovenia: http://www.sodisce.si/

In Slovenia, jurisdiction ratione materiae at the first instance or the possibility of a court being able to adjudicate on a party's specific claim is shared between local and district courts. The following two criteria are decisive when deciding which court will adjudicate upon a case: the value of the claim (subject of the dispute) and the legal basis for the relationship at dispute (content and subject of the dispute).

The general rule is that a district court adjudicates on more important disputes, where the subject of the dispute is of high value, where the dispute has significant relevance to a party's life, or where it is legally complex, since the courts are obliged, in their adjudication, to apply laws that address complex and sensitive legal issues (e.g. divorce, child maintenance).

Higher courts with general jurisdiction (višja sodišča), of which there are four in Slovenia, adjudicate at the second instance. It is not possible to file an action directly with such a court. Higher courts adjudicate on appeals against the decisions of local and district courts; they also adjudicate on disputes relating to jurisdiction between local and district courts in the area of the country they cover.

The Supreme Court of the Republic of Slovenia has jurisdiction to adjudicate on appeals against the judgements of the higher courts, especially decisions relating to revisions and to requests for the protection of legality. Where extraordinary legal remedies are filed, an interested party must be assisted by a lawyer – by law, only qualified lawyers may carry out specific procedural acts before the Supreme Court.

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

As stated in the previous point, jurisdiction at the first instance is divided between local and district courts; however, these two courts are not in a strict hierarchical relationship. The jurisdiction of the courts is determined by law, but in general it is true that the district courts do generally hear cases that are more complex in law and in fact.

The Civil Procedure Act (Zakon o pravdnem postopku, ZPP) stipulates that local courts, of which there are 44 in total in Slovenia, have jurisdiction to adjudicate in the following cases:

property claims where the value of the subject of dispute does not exceed EUR 20 000;
disputes relating to trespass;
disputes relating to easement and encumbrance;
disputes relating to rent and lease relations.

Local courts also conduct legal aid cases for which no other court has jurisdiction under the law, as well as other cases determined by law.

District courts, of which there are 11 in Slovenia, have jurisdiction to adjudicate in the following cases:

property claims where the value of the subject of dispute exceeds EUR 20 000;
disputes to determine or challenge paternity or maternity;
matrimonial disputes;
disputes relating to legal maintenance obligations;
disputes relating to the protection and raising of children;
disputes relating to children's contact with parents and with other persons, when they are resolved jointly with disputes relating to the protection and raising of children;

disputes relating to copyright, and disputes relating to the protection or use of inventions and trademarks or the right to use a trading name, and in disputes relating to competition protection rules;
commercial disputes;
disputes arising from bankruptcy proceedings.
Adjudication on intellectual property rights at the first instance falls exclusively within the territorial jurisdiction of Ljubljana District Court. District courts also have jurisdiction over claims for international legal aid and for legal aid in procedures to recognise foreign court judgements, and also conduct other cases determined by law.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

In principle, an action may be filed at any of the courts of first instance in Slovenia mentioned in the points above. The court to which a party submits an action must decide on its jurisdiction to hear the case before adjudication starts. Should it find that it does not have territorial jurisdiction in a specific case, it may declare that it does not have jurisdiction and cede the case to another court, although it need do so only if the opposing party draws its attention to the lack of jurisdiction. It is obliged to do so, however, if another court has exclusive territorial jurisdiction to adjudicate. Notwithstanding this, there are some general rules applied to determine the territorial jurisdiction of courts that are taken into account in order to ensure that costs are kept down and proceedings resolved as quickly as possible.
The ZPP contains a rule on general and specific territorial jurisdiction; this is determined in relation to the subject of the dispute and parties thereto. The details are set out in the points below.

2.2.1 The basic rule of territorial jurisdiction

This stipulates that in an action filed against a natural person or legal entity, the action must be filed with the court covering the area in which the defendant has permanent residence or in which the legal entity has its registered office. If it is a case against a non-national natural person or legal entity, the court with general territorial jurisdiction is the court covering the area in which the natural person has residence in Slovenia or in which the legal entity has its branch office.

2.2.2 Exceptions to the basic rule

In certain cases the ZPP gives parties to a case the possibility of filing an action with another court and not that with general territorial jurisdiction under the rule. In specially defined cases (with respect to the subject or content of the dispute), a party may only file an action with the court with sole jurisdiction to adjudicate in the case in question; in this instance, it is referred to as exclusive territorial jurisdiction.
If a claimant files an action with a court that does not have territorial jurisdiction, it is declared as such and the case is transferred to another court with jurisdiction, where the case continues as if it had commenced there.

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

As stated, in certain cases two courts can simultaneously have territorial jurisdiction. In this instance, a party to the case may choose with which court to file the action **(selective jurisdiction).**
Jurisdiction of this type is defined in Articles 49 to 65 of the Civil Procedure Act; therefore, only the most important cases, and those of most relevance to the life of parties to the case, are set out below.
In disputes relating to spousal maintenance, it is not only the court with general territorial jurisdiction that has jurisdiction, but also the court covering the area in which the claimant (maintenance beneficiary) has their permanent residence. The option of selecting courts is also available to parties in matrimonial disputes (divorce cases). In this case, the court covering the area in which the spouses had their last joint permanent residence has jurisdiction. In disputes to determine or challenge paternity or maternity, jurisdiction also pertains to the court covering the area in which the child permitted by Slovenian legislation to file an action has permanent or temporary residence. Where a court in Slovenia has jurisdiction in such disputes, i.e. because the claimant has permanent residence in Slovenia, territorial jurisdiction pertains to the court covering the area in which the claimant has permanent residence. In non-contractual disputes for compensation (these are most usually cases relating to traffic accidents), the court covering the area in which the damage event occurred (e.g. the location of the traffic accident) or the court covering the area in which the consequences of the damage arose have jurisdiction, alongside the court with general territorial jurisdiction. In the event of damage occurring that leads to loss of life or serious injury, the court covering the area in which the claimant has permanent or temporary residence also has jurisdiction. In disputes arising from contractual relations between parties, the court covering the area determined as the area in which the contractual relations are met also has jurisdiction; a similar arrangement exists in relation to disputes concerning bills of exchange or cheques (court covering the place of payment).
Furthermore, selective jurisdiction also applies in disputes relating to consumer contractual relationships in which the claimant is a consumer (a natural person). In such cases, it is not only the court with general territorial jurisdiction that has jurisdiction, but also the court covering the area in which the consumer has their permanent or temporary residence. If the claimant in a dispute relating to a consumer contractual relationship is a company, jurisdiction pertains to the court covering the area in which the consumer has their permanent or temporary residence. A different territorial jurisdiction can only apply if the consumer and the company enter into an agreement after the dispute has arisen or an agreement that additionally allows the consumer to initiate proceedings before other courts. In disputes relating to insurance relationships in which the defendant is an insurance company, it is not only the court with general territorial jurisdiction and the court covering the area in which the branch of the insurance company has its registered office that has jurisdiction, but also the court covering the area in which the claimant has their permanent or temporary residence or registered office. In disputes relating to insurance relationships, an insurance company may only file a claim before a court covering the area in which the defendant, who is the policyholder, the insured person or the beneficiary of the insurance, has their permanent or temporary residence or registered office. A different territorial jurisdiction can only apply if the parties to the dispute enter into an agreement after the dispute has arisen or an agreement that additionally allows the policyholder, the insured person or the beneficiary of the insurance to initiate proceedings before other courts.
Other cases of selective jurisdiction are, as indicated, set out in the Civil Procedure Act.

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

In specific cases, the law prescribes special territorial jurisdiction and defines a court as the only court with jurisdiction to adjudicate on a specific case. This is termed **exclusive territorial jurisdiction**, and applies as follows:
for disputes relating to real property rights, trespass and the renting and leasing of property, the court with exclusive territorial jurisdiction is the court covering the area in which the property is located;
for disputes relating to real rights to maritime craft or aircraft (and disputes relating to their leasing), the court with exclusive territorial jurisdiction is the court covering the area in which the register of the maritime craft or aircraft is kept;
for disputes arising in the course or as a result of judicial or administrative enforcement proceedings and disputes arising in the course of or in relation to bankruptcy proceedings, the court with exclusive territorial jurisdiction is the court in the area in which the court that is conducting the enforcement or bankruptcy proceedings is located.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

Slovenian legislation allows parties in a specific case to agree upon the jurisdiction of a first instance court (**agreement on territorial jurisdiction**). An agreement between them can change the territorial jurisdiction as defined by law, though it must be emphasised that parties cannot make an agreement determining jurisdiction **ratione materiae**; that can only be determined by law (cf. the explanation above).

Parties may agree that a court of first instance that does not otherwise have territorial jurisdiction may hear their case. The basic condition that the parties must meet is that the court thus agreed upon has the jurisdiction to adjudicate on the content of the case or that it has jurisdiction ratione materiae (cf. the separation of jurisdiction between local and district courts). An agreement is also not permitted when the law provides a court with exclusive territorial jurisdiction (cf. the previous point).

An agreement between the parties must be made in writing and must relate to a specific dispute or future dispute that arises or that could arise from their specific legal relationship. The agreement document must be attached by the claimant to the action by which proceedings are instituted before the court in question. It is important to point out that an agreement on territorial jurisdiction cannot be made during proceedings – that is, when an action has already been filed at a court, without such an agreement having been attached.

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

The Slovenian judicial system does not have specialised courts in the field of civil and commercial law (e.g. special family courts to resolve matrimonial disputes or disputes between parents and children), as all civil disputes are resolved at local and district courts, or their civil and commercial departments. Courts have organised departments (civil, family, commercial, execution, non-litigious, probate). In general, specialised judges adjudicate on disputes in these departments and issue court judgements.

Special courts are only organised for labour and social disputes, the jurisdiction and organisation of which are set out in the opening remarks.

Related links

http://www.sodisce.si/

http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/preciscenaBesedilaZakonov

https://www.uradni-list.si/glasilo-uradni-list-rs

http://www.pisrs.si/Pis.web/

Last update: 16/10/2019

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