

Avaleht>Kohtumenetlused>Tsiviilasjad>Millise riigi kohus on pädev kohtuasjaga tegelema?

Which country's court is responsible?

Bulgaaria

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

In civil proceedings, ordinary courts examine and make decisions on disputes and other legal issues arising from relationships in civil law (Article 14(1) of the Code of Civil Procedure (Grazhdanski protsesualen kodeks) (GPK)). Some large provincial courts have stand-alone commercial divisions, separate from the criminal and civil divisions.

Actions for compensation for harm caused to individuals or legal persons by unlawful acts, actions or omissions of executive authorities and their officials in the course of or in connection with the performance of administrative activities are an exception to this rule. Such cases lie within the initial jurisdiction of the administrative courts, which hear all administrative cases concerning the issuance, modification, revocation or annulment of administrative acts and administrative contracts and protection against wrongful acts and omissions of the administration, with the exception of cases falling under the jurisdiction of the Supreme Administrative Court (Varhoven administrativen sad). No other specialised courts have been set up in the area of civil law.

Under Bulgarian law, a crime victim may bring an action for compensation for the harm suffered both under civil procedure and in the criminal proceedings instituted against the accused. A civil action in criminal proceedings may be brought both against the defendant and against other persons who bear civil liability for the harm caused by the offence. It should be borne in mind that the court may refuse to examine the civil action in the criminal proceedings. In such a case, the victim may bring an action and assert their rights under the standard civil law procedure.

### 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?

#### 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?

The district court (rayonen sad) is the main court with initial jurisdiction over civil cases other than those falling under the initial jurisdiction of a provincial court (okrazhen sad) (Article 103 of the GPK).

Under Article 104 of the GPK, provincial courts have initial jurisdiction over:

- establishing or challenging parentage, terminating an adoptive relationship, declaring a person to be under judicial disability or lifting such disability;
- ownership of or real rights over a property if the value of your claim is higher than BGN 50 000,
- a civil or commercial dispute over a sum of more than BGN 25 000 (unless the dispute concerns maintenance payments, a claim under labour law or the recovery of unauthorised expenditure),
- an inadmissible, void or incorrect company registration for which the law provides that the provincial courts have initial jurisdiction;
- claims, irrespective of their value, joined in a single application within the jurisdiction of a provincial court, if they are to be examined under the same procedure;
- a dispute subject to examination by a provincial court under other legislation.

Under the Commerce Act (Targovski Zakon), actions brought under that Act to defend the rights of an associate of a firm, challenge a decision of the shareholders of a firm, obtain the cancellation of the incorporation of a firm, obtain the closure of a firm or launch insolvency proceedings are examined by the provincial court with jurisdiction over the firm's registered place of business. The competent insolvency court is the provincial court with jurisdiction over the area in which the trader has its head office at the time of the application to open insolvency proceedings.

Administrative courts have initial jurisdiction over cases for compensation for damages caused by unlawful instruments, acts or omissions of administrative authorities and officials.

A civil action brought in criminal proceedings is examined by the court with jurisdiction over the criminal offence committed.

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

##### 2.2.1 The basic rule of territorial jurisdiction

Actions should be brought before the court with jurisdiction over the district (rayon) where the defendant is resident or has its registered place of business or head office.

Actions against legal persons must be brought before the court with jurisdiction over their registered office. In disputes arising from direct dealings with divisions or branches of legal persons, actions may alternatively be brought before the court exercising jurisdiction over the location of the said divisions or branches.

Actions against the State and government institutions, including their divisions and branches, must be brought before the court within whose jurisdiction the legal relationship underlying the dispute came into being. Where this legal relation was formed abroad, the action must be brought before the competent court in Sofia.

An action against someone with no known address must be brought before the court with jurisdiction over the place of residence of their attorney or legal representative or, if that is not possible, over the applicant's place of residence. This also applies if the respondent is resident outside Bulgaria. If the applicant is also resident outside Bulgaria, the action must be brought before the competent court in Sofia.

Actions against a minor or someone without legal capacity must be brought before the court with jurisdiction over their legal representative's place of residence.

Actions concerning an inheritance, the complete or partial withdrawal of a will, the partitioning of an inheritance or the cancellation of a voluntary partition must be brought according to the place where the estate was opened. If the deceased is a Bulgarian citizen, but the estate is opened outside Bulgaria, the action must be brought either before the court with jurisdiction over the deceased's last Bulgarian residence or in the place where their assets are located.

##### 2.2.2 Exceptions to the basic rule

###### 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?

An action to make good a financial claim based on a contract may be brought before the court with jurisdiction over the respondent's current place of residence.

Maintenance claims may also be brought before the court with jurisdiction over the applicant's place of residence.

Workers may also bring an action against the employer at their habitual place of work.

Disputes under labour law between foreign persons, firms or joint ventures whose registered place of business is in Bulgaria on the one hand and foreign employees working for them inside Bulgaria on the other, come under the courts in the employer's registered place of business, unless the parties have agreed otherwise.

Disputes under labour law between employees with Bulgarian citizenship working abroad for Bulgarian employers come under the courts in Sofia if the case is brought against the employer, and under those in the employee's Bulgarian residence if the case is brought against the employee.

An action for wrongful damage may be brought before the courts where the damage occurred.

An action against respondents from different judicial districts or concerning property spread over more than one judicial district may be brought before the court of the applicant's choice in one of those districts.

#### **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)?**

Actions concerning real rights over a property, partition of a co-property or establishing the boundaries of or re-establishing ownership rights over a real property must be brought before the courts where the property is located. Actions concerning a deed confirming real rights in a property or aimed at severing, dissolving or voiding a real property deed must also be brought before the court that has jurisdiction for the property..

Actions by and against consumers must be brought before the court with jurisdiction over the consumer's present address, and if there is no present address, over the consumer's permanent address.

Actions for compensation under the Insurance Code (Kodeks za zastrahovaneto) initiated by the injured person against an insurer, the Guarantee Fund (Garantsionen fond) and the National Bureau of Bulgarian Motor Insurers (Natsionalno byuro na balgarskite avtomobilni zastrahovateli) must be brought before the court with jurisdiction over the place where plaintiff's permanent address or registered office was located when the insured event occurred or over the place of occurrence of the insured event.

An action for compensation for harm resulting from a criminal offence must be lodged for simultaneous examination in the criminal proceedings with the court before which the criminal charge is brought.

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

In principle, a jurisdiction determined by statute may not be reassigned by agreement between the parties.

However, the parties to a property dispute can depart from the rules of territorial jurisdiction by signing an agreement attributing jurisdiction to a particular court. This is not possible, however, if the action concerns real property rights, partition of co-property, establishing the boundaries of or re-establishing ownership rights over real property, a deed confirming real rights in a property or is aimed at severing, dissolving or voiding a real property deed, in which cases the law determines which court has territorial jurisdiction.

In actions concerning consumer protection or labour law, agreements between the parties over which court will have jurisdiction are valid only if signed after the dispute arose.

The parties to a property dispute may agree to settle the matter by arbitration, unless it concerns real rights or real property, maintenance payments or labour law. In order to launch arbitration proceedings, all parties involved must conclude a special procedural agreement (arbitrazhno sporazumenie or arbitration agreement). The arbitration court may use any relevant sources of international law and a specific Bulgarian source: the Arbitration in International Trade Disputes Act (Zakon za mezhdunarodniya targovski arbitrazh).

Under the Arbitration in International Trade Disputes Act, an arbitration agreement means that all parties involved request an arbitration court to settle all or part of the disputes that may arise or have arisen between them within a given contractual or non-contractual relationship. The agreement can take the form of an arbitration clause in another contract or a separate agreement. An arbitration agreement must be in writing. An arbitration court can be a permanent institution or can be created to settle a particular dispute. An arbitration court can sit outside Bulgaria if one of the parties is normally based outside Bulgaria, has its place of business there according to its statutes or has its central management there.

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

The only specialised courts in Bulgaria with jurisdiction over disputes in civil law are the administrative courts.

Actions against the executive authorities for compensation for damages may be brought before the administrative court with jurisdiction over the place where the injury occurred or over the injured party's present address or registered office, and where such actions are joined to a challenge to the administrative act itself, they must be brought before the court with jurisdiction over the appellant's address or registered office (Article 133(5) of the Administrative Procedure Code (Administrativno protsesualen kodeks)).

All administrative cases come under the administrative courts, except those that come under the Supreme Administrative Court. The Supreme Administrative Court has initial jurisdiction over challenges to: a regulation issued by a public authority other than a municipal council, a regulation issued by the Council of Ministers, the Prime Minister, a deputy prime minister or a minister, a decision by the Supreme Judicial Council, a regulation issued by the Bulgarian National Bank any other regulation for which the law provides that the Supreme Administrative Court has initial jurisdiction.

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