How to bring a case to court

Slovēnija

1 Do I have to go to court or is there another alternative?

It might be better to resolve the dispute by means of alternative dispute resolution procedures. Alternative dispute resolution (ADR) methods allow disputes to be resolved without the intervention of a court, or at least without a court decision on the merits of the case. The main types of ADR practised in Slovenia include arbitration, mediation and court action in a broader sense aimed at encouraging a court settlement. The Alternative Dispute Resolution Act (Zakon o alternativnem reševanju sodnih sporov) obliges courts of first and second instance to enable parties to disputes arising from commercial, labour-related, family and other civil-law relationships to use ADR techniques to adopt and enforce an ADR programme. Under such a programme, courts are obliged to allow parties to use mediation, and possibly other forms of ADR as well.

Mediation is the settlement of a dispute with the help of a neutral third party, who cannot deliver a binding decision. Parties may agree to conclude a dispute resolution agreement in the form of a directly enforceable notarial record, a settlement before the court or a settlement-based arbitration decision.

The parties may, at any time during proceedings in a civil court, conclude a settlement on the subject of the dispute (court settlement). An agreement on the conclusion of a court settlement constitutes an executory title.

More on this topic can be found under ‘Alternative dispute resolution’.

2 Is there any time limit to bring a court action?

The deadlines for bringing a court action depend on the nature of the case. A legal adviser or legal aid service can clarify questions relating to deadlines and limitation periods. More on this topic can be found under ‘Procedural time limits’.

3 Should I go to a court in this Member State?

More on this topic can be found under ‘Jurisdiction of the courts’.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

More on this topic can be found under ‘Jurisdiction of the courts’.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

More on this topic can be found under ‘Jurisdiction of the courts’.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

Parties may appear before courts themselves in Slovenia, except in procedures involving extraordinary legal remedies, where they may take legal action only through an intermediary who is a lawyer, or if the party or their legal representative have passed the state bar examination. Should a party wish to be represented by counsel, that intermediary may, in proceedings before a local court, be any person with full legal capacity, while before a district, higher or the Supreme Court, only a lawyer or other person who has passed the state bar examination may appear as counsel.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

An action may be sent to the court with jurisdiction by post or delivered directly to its reception office. See also reply 8.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

The official language of courts in Slovenia is Slovenian. However, in areas where there is a Hungarian or Italian ethnic minority, Hungarian or Italian also operates as an official language alongside Slovenian. The action must be drawn up in Slovenian and signed by the claimant him or herself.

An applicant’s original signature means a handwritten signature as well as an electronic signature that is equivalent to a handwritten signature.

An application, as well as an action, must be filed in written form. A written application is deemed to be one that has been handwritten or printed and signed in the applicant’s own hand (application in physical form) or an application in electronic form and signed with an electronic signature equivalent to a handwritten signature (application in electronic form). An application in physical form is submitted by post, by use of communications technology, delivered directly to the body, or delivered by a person engaged professionally in submitting applications. An action may also be submitted via fax.

The law also provides for electronic applications, i.e. applications in electronic form and signed with an electronic signature that is equivalent to a handwritten signature. Electronic applications are submitted to the judicial information system by electronic means. The information system automatically confirms to the applicant that the application has been received.

Notwithstanding the existing legal provisions (acts and implementing regulations) relating to all civil and commercial procedures, currently only procedures included in the e-Justice (e-Sodstvo) website may be initiated via the internet or electronically: certain types of enforcement procedure, the submission of applications and the issuing of decisions in insolvency proceedings, and the submission of land register proposals.

The e-Justice website exists in Slovenia for this purpose, and enables written material to be submitted in electronic form: https://evlozisce.sodisce.si/esodstvo/index.html.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

In Slovenia an action does not have to be submitted on a special form; however, it must contain certain legally-defined elements, some applying to all applications and some specifically to the action in question. An action must therefore include: a reference to the court, the names and permanent or temporary residence of the parties, the names of the legal representatives or counsels, the subject of the dispute and the content of the statement. It must also include the personal identification number (EMŠO) of a party, if that party is a natural person registered in the central population register; a tax number if the party is not registered in the central population register but is registered in the tax register; or date of birth if the party is registered neither in the central population register nor the tax register (this information is obtained by the court ex officio). If the party is a legal entity, the action must state the name or business name, registered office and business address, and the registration number or tax number if the legal entity is established in Slovenia. If the party is a sole trader (a self-employed person engaged in a gainful activity within an organised company) or a private undertaking (e.g. a doctor, a notary, a lawyer, a farmer or another natural person who is not a sole trader and practices a profession), the action must state the registered office and business address, and registration number or tax number if registered in Slovenia. The action must also include a specific request setting out the main subject of the case and the side claims, the facts supporting the claimant’s request, evidence substantiating those facts, and the applicant’s signature. If the jurisdiction of a court

depends on the value of the subject of dispute, and the subject of dispute is not pecuniary, the claim must also state the value of the subject of dispute.
Applications that have to be delivered to the opposing party must be submitted to the court in as many copies as required by the court and the opposing party, and in a form that allows the court to submit them. This also applies to enclosures.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Court fees must be paid for the filing of actions, countersuits, motions for divorce by mutual consent, actions containing a proposal to issue an order for payment, motions for reopening a case, motions for the securing of evidence before the initiation of civil proceedings, motions for an attempt to settle, applications announcing an appeal, appeals, motions for the approval of an audit, and audits. Court fees must be paid no later than by a deadline determined by the court in the order for payment of the court fees.
If the court fee is not paid within this time limit and there are no conditions to allow for waiving or deferring the fee or paying the fee by instalments, the filing is considered withdrawn.
The costs of court proceedings are covered by the unsuccessful party in the case. Intermediaries who are lawyers are allotted their lawyers' fees in judicial proceedings under the Lawyers' Tariff Act (Zakon o odvetniški tarifi). Lawyers' fees are the total cost of lawyers' services and expenses necessary to perform the work, plus VAT if the lawyer is registered for VAT in Slovenia. In accordance with the regulations, a lawyer must issue the party or the contracting party with an itemised invoice for the legal service provided or a receipt stating that the advance has been received no later than eight days after the service was provided or the advance paid. The legal service shall be deemed to be performed no later than after the lawyer has performed all the obligations set out in the mandate agreement or in a decision of the competent authority. The lawyer may request the party to pay an advance on the service requested and related costs prior to the end of proceedings.

11 Can I claim legal aid?

Parties may request legal aid, which shall be granted to them if they meet the conditions laid down in the Free Legal Aid Act (Zakon o brezplačni pravni pomoči, ZBPP). More on this topic can be found under 'Legal aid'.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

An action is deemed to have been brought when it is received by the court that has jurisdiction. Where it is sent by registered post or by telegram, the date of posting is taken as the date of delivery to the court to which it is addressed. The applicant does not automatically receive confirmation that the action has been brought. If the application is delivered to the court's post box, the time at which it was received by the court's post box is taken as the moment of delivery to the court to which it is addressed.
The Electronic Applications Act (Zakon za vloge v elektronski obliki) stipulates that electronic applications are submitted to the judicial information system by electronic means. In this case, the time at which it was received by the judicial information system is taken as the moment of delivery to the court to which it is addressed. The information system automatically confirms to the applicant that the application has been received.
We should point out that, despite the legal provisions in place, it is currently not possible to file an action by electronic means in civil and commercial cases, with the exception of proceedings involving the land register, insolvency and enforcement.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

Where events are tied to preclusive deadlines, the court warns the party in writing and attaches a legal notice explaining the consequences if the party fails to follow the court's instructions.

Related links

http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/preciscenaBesedilaZakonov
http://www.sodisce.si/
https://www.uradni-list.si/glasilo-uradni-list-rs
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