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# Securing assets during a claim in EU countries

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European Judicial Network  
(in civil and commercial  
matters)

 Slovakia

## 1 What are the different types of measures?

Slovak law recognises the concepts of 'urgent measures', 'precautionary measures', and the 'safeguarding of evidence'. The corresponding provisions can be found in Section 324 *et seq.* of Act No 160/2015, the Code of Civil Dispute Procedure, and – for special proceedings – in Section 360 *et seq.* of Act No 161/2015, the Code of Civil Non-Dispute Procedure.

Under a precautionary measure, a court may establish a charge on the debtor's belongings, rights or other assets in order to secure a monetary claim of the creditor where it is feared that enforcement will be compromised.

An urgent measure is ordered by a court where circumstances need to be regulated immediately or where it is feared that enforcement will be frustrated, and if the aim pursued cannot be achieved by a precautionary measure. Such a decision can also serve as a guarantee of the effectiveness of future enforcement of a judicial ruling.

The concept of the safeguarding of evidence enables evidence (of any type, whether from a witness, an expert, or similar) to be safeguarded prior to the proceedings on the basis of a motion – not on the court's initiative. It is anticipated that this motion may be brought by a person with the standing to apply for the initiation of proceedings in which the results of the safeguarding of evidence may be used.

## 2 What are the conditions under which such measures may be issued?

### 2.1 The procedure

A district court with jurisdiction to adjudicate on a case is competent to order an urgent or precautionary measure.

A court orders an urgent or precautionary measure further to a motion. No motion is required where an urgent or precautionary measure pertains to proceedings that may be initiated by a court *ex officio*.

Mandatory legal representation is not prescribed by law.

Under the relevant law, a EUR 33 court fee is chargeable for a motion seeking the issuance or extinguishment of a measure.

There is no charge for the safeguarding of evidence. The state pays for the costs of evidence that are not covered by an advance. However, the court may order a party who does not qualify for exemption from court fees to deposit an advance on the costs of evidence, without thereby losing the entitlement to later reimbursement.

The law does not prescribe mandatory legal representation in this case either.

Evidence may be safeguarded in this way in both contentious and non-contentious proceedings.

## 2.2 The main conditions

A court may order urgent measures before, during and after proceedings. With precautionary measures, a charge is established by the issuance of an order for a precautionary measure.

Before, during and after the main proceedings, evidence may be safeguarded further to a motion where it is feared that it will subsequently not be possible at all, or only with great difficulty, to take evidence. The safeguarding of evidence is in the competence of a court with jurisdiction to adjudicate on a case or a court in whose area of jurisdiction the evidence that is at risk can be found. In addition to general provisions, the Code of Civil Dispute Procedure contains specific provisions on the safeguarding of evidence in intellectual property cases.

## 3 Object and nature of such measures?

### 3.1 What types of assets can be subject to such measures?

A court may impose an urgent measure requiring, in particular, a party:

- (a) to pay maintenance to the extent necessary;
- (b) to place a child in the custody of the other parent or in the custody of a person designated by the court;
- (c) to provide at least part of his or her pay, if in employment, where the applicant, for serious reasons, does not work;
- (d) to place a sum of money or an asset in judicial safekeeping;
- (e) not to dispose of certain assets or rights;
- (f) to carry out, to refrain from, or to tolerate a particular activity;
- (g) to temporarily refrain from entering a house or flat in which a close person or a person who is in that party's care or charge resides, and in respect of whom there is reasonable suspicion of violence;
- (h) to refrain from conduct infringing or jeopardising an intellectual property right.

### 3.2 What are the effects of such measures?

The definitions of the types of urgent measures are intended as examples, which means that a court may also order urgent measures covering other areas.

An urgent or precautionary measure under which a party is to refrain from disposing of assets or rights constitutes a ban on the disposal of assets or rights where, for example, it is feared that the defendant could squander them (transfer them to another person, destroy or damage them, etc.).

A court may hand down a ruling on an urgent or precautionary measure without hearing the parties. In other words, the parties need not be heard prior to the ruling. This is a precept linked to the fact that a hearing could frustrate the purpose of the urgent and precautionary measure and to the fact that, as a matter of principle, evidence is not taken in such judicial activity. That is not to say that the court cannot order the parties to be heard. If it does, it must comply with all rules on procedural evidence-taking. If the court takes evidence solely in the form of instruments, such evidence is not taken at a public hearing. Instead, the court exercises power of discernment without interacting with the parties.

An urgent measure is enforceable upon service, unless otherwise provided for by special legislation.

### 3.3 What is the validity of such measures?

An urgent or protective measure is extinguished:

- (a) upon expiry of the period for which it has been ordered;
- (b) if it has been ordered after the initiation of main proceedings and the first-instance court or appellate court dismisses the action or discontinues the proceedings;
- (c) if, in its ruling, the court sets a deadline for a motion to be brought in the main proceedings, but no such motion is made by that deadline;
- (d) if the court upholds an action in the main proceedings;
- (e) where no longer required under the enforcement status.

## 4 Is there a possibility of appeal against the measure?

An appeal against an order for an urgent or precautionary measure is permissible. The court competent to adjudicate on a remedy is the appellate court with due jurisdiction, i.e. the second-instance court superior to the first-instance court that ordered the urgent or precautionary measure.

Appeals are lodged within 15 days of service of the ruling at the court whose ruling is being appealed. The lodging of an appeal does not have suspensive effect.

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