


[Home](#) > ... > [Court Procedures](#) > [Civil Cases](#) > [Which Country's Court Is Responsible?](#) > Slovakia

Which country's court is responsible?

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(in civil and commercial
matters)

 Slovakia

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

In principal, in first-instance proceedings in civil matters, the ordinary courts have jurisdiction, which means, in the majority of cases, the district court (*okresný súd*) (Section 12 of the Code of Civil Adversarial Procedure (*Civilný sporový poriadok*, CCAP)), and in exceptional cases the regional court (*krajský súd*) (Section 31 CCAP). In certain cases, a specialised court must be approached (see reply to question No 3)

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?

Substantive jurisdiction is generally understood as the designation of the competence to decide cases at first instance between courts of various types. That means that it is a determination of whether a district or a regional court should decide a matter as the court of first instance. Generally, district courts have jurisdiction to hear civil cases at first instance (Section 12 CCAP). In certain matters, specified by law, it is regional courts that decide as courts of first instance (Section 31 CCAP). The basic criterion for determining a court's jurisdiction is the nature of the matter.

The basis of court procedure are hearings before courts of first instance. Every matter must first be heard by a court of first instance. Circumstances that exist at the time of the start of the procedure, i.e., on the day when the claim/application arrives at the court, are decisive for determining substantive jurisdiction. A change in circumstances in the course of a procedure has no impact on the already established substantive jurisdiction.

The existence of substantive jurisdiction is one of the fundamental procedural conditions pertaining to the court. A court reviews whether it has been met ex officio at all stages of proceedings and at all instances, hence, an objection as to a lack of substantive jurisdiction need not be raised. If a court holds that it lacks substantive jurisdiction, it is obliged to pass the case to another court that has substantive jurisdiction. The court informs the claimant/applicant. If the claim/application has already been served on the defendant/respondent, the court must also inform that party of having passed the case to a court that has substantive jurisdiction. A dispute as to substantive jurisdiction may only arise between a district and regional court, given that the Supreme Court (*Najvyšší súd*) cannot have substantive jurisdiction in first instance proceedings. A dispute as to substantive jurisdiction between a district and regional court will be resolved by the Supreme Court, which is the court superior to both in deciding on jurisdiction.

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 judicial system of the Slovak Republic has a three-level court system: district courts, regional courts, and the

Supreme Court. District courts have jurisdiction to hear civil cases at first instance (Section 12 CCAP). Regional courts have jurisdiction at second instance, which means that appeals against decisions of district courts will always be heard by regional courts. An exception are disputes arising from abstract review in consumer matters, when regional courts (Bratislava Regional Court, the Banská Bystrica Regional Court, and the Košice Regional Court) decide in their districts as courts of first instance (Section 31 CCAP).

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

Territorial jurisdiction is regulated by the Code of Civil Adversarial Procedure and Code of Civil Non-Adversarial Procedure (*Civilný mimosporový poriadok*, CMP). Provisions on territorial jurisdiction determine which first-instance court, i.e., which specific court, of all courts having substantive jurisdiction, should hear and decide a matter. Applicable legal regulation distinguishes between general territorial jurisdiction and particular territorial jurisdiction. Particular territorial jurisdiction takes priority in the determination of the territorial jurisdiction of a court. If jurisdiction is not determined using this method, general territorial jurisdiction is applied. Territorial jurisdiction can also be optional (alternative/facultative) or exclusive. If territorial jurisdiction is optional, the claimant can choose whether to file at the ordinary court of the defendant or at another court stated in the CCAP. When territorial jurisdiction is exclusive, cases are enumerated when a court other than the ordinary court of the defendant has territorial jurisdiction. That means that a certain court will have jurisdiction regardless of whether a different court is the defendant's ordinary court, and regardless of the possibility of choosing a court at one's discretion in the given matter.

2.2.1 The basic rule of territorial jurisdiction

Adversarial cases

According to the provisions of the CCAP, the ordinary court of the defendant will always have territorial jurisdiction, unless otherwise provided (Section 13 CCAP).

The ordinary court of an individual is the court in whose district the individual has his permanent residence (Section 14 CCAP).

The ordinary court of a legal entity is the court in whose district the legal entity has its registered seat (Section 15 (1) CCAP). The ordinary court of a foreign legal entity is the court in whose district the foreign legal entity has its branch office in the Slovak Republic (Section 15 (2) CCAP).

If an ordinary court cannot be thus determined, the ordinary court will be that court in whose district the individual or the legal entity had his last permanent residence or its registered seat in the Slovak Republic; if there is no such court, then the court in whose district the person has assets will have jurisdiction (Section 16 CCAP).

The ordinary court of the State is the court in whose district a fact giving rise to the claim occurred (Section 17 CCAP).

Non-adversarial matters

In non-adversarial matters (Section 3 CMP), a court designated by the Act has territorial jurisdiction. If territorial jurisdiction cannot be determined thereby, the court that is the ordinary court of the claimant has territorial jurisdiction.

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?

Alternative jurisdiction (jurisdiction chosen optionally) reflects the right of the claimant to choose, instead of the defendant's ordinary court, a court that has jurisdiction under Section 19 CCAP. Aside from the general court of the defendant, territorial jurisdiction is also held by a court in whose district:

a) is the defendant's place of work, pursuant to his employment agreement;

- b) a circumstance giving rise to a damage claim occurred;
- c) the branch office of a defendant legal entity is based, if the dispute relates to that office;
- d) the claimant who is a consumer has his permanent residence, if the dispute is a consumer dispute or if the proceedings concern disputes related to consumer arbitration;
- e) the claimant has his permanent residence or registered seat or, in the case of a foreign legal entity, where the claimant has its organisational unit, in the case of an antidiscrimination dispute.

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)?

Exclusive jurisdiction in adversarial matters means the obligation of the claimant to choose, instead of the ordinary court of the defendant, the court that has jurisdiction pursuant to Section 20 CCAP. That means that, in the following cases, territorial jurisdiction to hear the proceedings will belong to the court:

- a) in whose district is the real property, in a dispute pertaining to a right in rem to real property;
- b) in whose district inheritance proceedings are conducted, in a dispute related to inheritance proceedings;
- c) at which execution proceedings are taking place, if the dispute is caused by the particular nature of the proceedings;
- d) at which bankruptcy or restructuring proceedings are taking place, if the dispute is caused by the particular nature of the proceedings, with the exception of proceedings concerning the settlement of indivisible marital property;
- e) in whose district is the venue of arbitration, if the proceedings concern disputes pertaining to arbitration proceedings, with the exception of consumer arbitration; if the venue of arbitration is outside of the Slovak Republic, the court in whose district the defendant has his permanent residence or the address of its registered seat or its organisational unit, in the case of a foreign legal entity, will have jurisdiction to hear the case; if the defendant does not have his permanent residence or the address of its registered seat or its organisational unit, in the case of a foreign legal entity, in the Slovak Republic, then the court in which the claimant has his permanent residence or the address of its registered seat or its organisational unit, in the case of a foreign legal entity, will have jurisdiction to hear the case.

Exclusive jurisdiction in non-adversarial cases means that, instead of the ordinary court, the following court shall have jurisdiction:

Territorial jurisdiction in proceedings concerning the divorce of a married couple will be had by the court in whose district the couple had their last joint address of residence, provided that at least one of them is still resident in that district. Otherwise, the ordinary court of the spouse who did not file the claim will have territorial jurisdiction. If court jurisdiction cannot be determined this way, the claimant's ordinary court will have jurisdiction (Section 92 CMP).

Territorial jurisdiction in proceedings concerning the determination of invalidity or of the nullity of a marriage will be had by the court in whose district the couple had their last joint address of residence, provided that at least one of them is still resident in that district. Otherwise, the ordinary court of the spouse who did not file the claim will have territorial jurisdiction. If court jurisdiction cannot be determined this way, the ordinary court of one of the spouses will have jurisdiction (Section 101 CMP).

Territorial jurisdiction in proceedings in cases concerning judicial protection of minors will be has by the court in whose district the minor has his residence, determined by agreement of his parents or otherwise in accordance with the law at the beginning of the proceedings (Section 112 (1) CMP).

Territorial jurisdiction in proceedings in cases concerning adoption will be had by the court in whose district the child has his residence, determined by agreement of his parents or otherwise in accordance with the law at the beginning of the proceedings. If there is no such court, the court in whose district the child dwells will have jurisdiction to hear the case (Section 136 CMP).

Territorial jurisdiction in proceedings concerning capacity to engage in legal actions will be had by the court in whose district the person whose capacity is concerned has his residence (Section 232 CMP).

Territorial jurisdiction in proceedings concerning the permissibility of a person's commitment and retention at a medical facility will be had by the court in whose district the medical facility is located (Section 252 CMP).

Territorial jurisdiction in proceedings concerning the appointment of a custodian will be had by the court in whose district the individual concerned has his residence; if there is no such court, the court in whose district the individual has his assets (Section 273 CMP).

Territorial jurisdiction in proceedings concerning a declaration of death will be had by the ordinary court of the person who is to be declared dead (Section 220 CMP).

Territorial jurisdiction in proceedings concerning inheritance will be had by the court in whose district:

- a) the testator had his permanent residence at the time of his death;
- b) the assets of the testator are located, unless jurisdiction is established pursuant to paragraph a);
- c) the testator died, unless jurisdiction is established pursuant to paragraphs a) or b) (Section 158 CMP).

In subsequent inheritance proceedings, the court that closed the inheritance proceedings will have territorial jurisdiction (Section 159 CMP).

If an action of a minor who is an heir must be approved by a court in connection with inheritance proceedings, the court before which the inheritance proceedings are taking place will have jurisdiction to approve the legal action (Section 160 (1) CMP).

Territorial jurisdiction in proceedings in cases concerning notarial custody will be had by the court in whose district the notary holding the money, items, or securities in custody has his registered office (Section 334 CMP).

Territorial jurisdiction in proceedings concerning the judicial replacement of a lost security issued by a bank or a branch of a foreign bank will be had by the court in whose district the bank or branch of a foreign bank has its registered office. Otherwise, the ordinary court of the claimant will have jurisdiction in proceedings concerning judicial replacement of a document. If the claimant does not have his ordinary court in the Slovak Republic, the court in whose district the point of payment is situated will have jurisdiction (Section 311 CMP).

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

No.

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

Jurisdiction of specialised courts is regulated in Section 22 – 33 CMP; specifically, there are specialised courts having jurisdiction in:

- a) bill of exchange and cheque proceedings;
- b) employment disputes;
- c) bankruptcy and restructuring proceedings;
- d) disputes related to industrial property;
- e) disputes related to unfair competitive conduct and copyright disputes;
- f) disputes arising from economic competition;
- g) disputes pertaining to arbitration proceedings;

h) disputes arising from stock exchange agreements;

i) disputes concerning the determination of the invalidity of an agreement, concession contract for work, or framework agreement;

j) disputes arising from abstract review in consumer matters;

k) disputes concerning compensation of nuclear damage;

l) matters concerning protective measures in civil matters ordered in another EU Member State.

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