

Jurisdiction - Slovenia

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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 and a 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 that is indeed the case, a court should 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?

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, if 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, if 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.

2.1 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 appropriate court in which to bring a claim at first instance is determined by its nature (contract, tort etc.) and value (see above).

For the purpose of the District Court, the country is divided into 24 districts to each of which one or more judges is permanently assigned. In the case of the two largest cities, Dublin and Cork, the volume of business requires the permanent assignment of a number of judges. The country is divided into eight circuits for the purposes of the Circuit Court. One Circuit Court Judge is

assigned to each circuit except in the case of the Dublin and Cork Circuits, where there are a greater number of judges due to the volume of business. The High Court sits in Dublin to hear original actions. It also hears personal injury and fatal injury actions in several provincial locations at specified times during the year. In addition, the High Court sits in provincial venues to hear appeals from the Circuit Court in civil and family law matters.

The District Court has jurisdiction to try cases concerning contracts, certain torts, hire-purchase and credit-sale agreements cases, tenancy cases such as ejection for non-payment of rent, and actions for wrongful detention of goods where the value of the claim is within its limit of €6,348.69. The District Court also has a range of powers in relation to the enforcement of judgments of any court for debt, the granting of licences such as licences to sell intoxicating liquor, and the custody and maintenance of children.

The Circuit Court has jurisdiction in contract and tort, in probate matters and suits for the administration of estates, in equity suits, in ejection actions or applications for new tenancies in actions founded on hire-purchase and credit-sale agreements, where the value of the claim is within its limit of €38,092.14. The Circuit Court has jurisdiction in family law proceedings, (including judicial separation, divorce nullity and appeals from the District Court) and has appellate jurisdiction from decisions of arbitrators in disputes in relation to ground rents under the landlord and tenant legislation.

Civil cases in the Circuit Court are tried by a judge sitting without a jury. Appeals from the District Court take the form of a re-hearing and the decision of the Circuit Court is final and cannot be appealed any further.

Under the Constitution, the High Court has full original jurisdiction in all matters of fact or law. This means that it has jurisdiction to deal with all civil cases where the defendant is resident within the country, where the alleged contract was made in the country, where the alleged tort was committed within the country or where real property which is the subject of the proceedings is situated within the country. The High Court hears appeals from the Circuit Court and exercises supervisory jurisdiction over the District Court and other lower tribunals. Appeals from the High Court are heard by the Supreme Court. The appeal is not by way of re-hearing but is based on a transcript of the evidence at first instance and legal argument.

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 may only do so if the opposing party draws their attention to the lack of jurisdiction, it is obliged to do so 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 or legal person, the action must be filed with the court covering the area in which the defendant has permanent residence or in which the legal person has its registered office. If it is a case against a non-national natural or legal person, 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 person 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 his or her 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, the court covering the area in which the child permitted by Slovenian legislation to file an action has permanent or temporary residence also has jurisdiction. Where a court in Slovenia has jurisdiction in such disputes, i.e. because the claimant has permanent residence in Slovenia, the court covering the area in which the claimant has permanent residence also has territorial jurisdiction. 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 in the place of payment). 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 a 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 in which 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>

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