

Maintenance claims - Slovenia

TABLE OF CONTENTS

- 1 What do the concepts “maintenance” and “maintenance obligation” mean in practical terms? Which persons have to pay a maintenance allowance to another person?
- 2 Up to what age can a child benefit from a maintenance allowance? Are there different rules for maintenance concerning minors and adults?
- 3 Should I apply to a competent authority or a court to obtain maintenance? What are the main elements of this procedure?
- 4 Can a request be made on behalf of a relative (if yes, what grade), or a child?
- 5 If I plan to bring the case to court, how do I know which court has jurisdiction?
- 6 As an applicant, do I have to go through an intermediary to bring the case to court (e.g. a lawyer, central or local authority, etc.)? If not, which procedures apply?
- 7 Do I have to pay fees to bring a case to court? If so, how much are they likely to be? If my financial means are insufficient, can I obtain legal aid to cover the costs of the procedure?
- 8 What kind of maintenance is likely to be granted by the court? How is the amount of maintenance calculated? Can the court's decision be revised, if living costs or family circumstances change? If yes, how (e.g. by means of an automatic indexation system)?
- 9 How and to whom will the maintenance be paid?
- 10 If the person concerned (debtor) doesn't pay voluntarily, what action can be taken in order to force him/her to pay?
- 11 Please describe briefly any limitations on enforcement, in particular debtor protection rules and limitation or prescription periods in your enforcement system
- 12 Is there an organisation or an authority which can help me to recover maintenance?
- 13 Can organisations (government or private) advance the payment of maintenance wholly or partly in the debtor's place?
- 14 If I am in this Member State and the debtor has his/her residence in another country:
 - 14.1 Can I obtain the assistance of an authority or private organisation in this Member State?
 - 14.2 If so, how can that authority or private organisation be contacted?
- 15 If I am in another country and the debtor is in this Member State:
 - 15.1 Can I address a request directly to such an authority or private organisation in this Member State?
 - 15.2 If so, how can that authority or private organisation be contacted and what kind of assistance can I receive?
- 16 Is this Member State bound by the 2007 Hague Protocol?
- 17 If this Member State is not bound by the 2007 Hague Protocol, which law will be applicable to the maintenance claim according to its private international law rules? What are the corresponding private international law rules?
- 18 What are the rules on access to justice in cross-border cases within the EU following the structure of Chapter V of the Maintenance Regulation?
- 19 What are the measures adopted by this Member State in order to ensure the functioning of the activities described in Article 51 of the Maintenance Regulation?



1 What do the concepts “maintenance” and “maintenance obligation” mean in practical terms? Which persons have to pay a maintenance allowance to another person?

Maintenance is an institution of family law based on one of the fundamental principles of family law, the principle of mutual assistance among family members, i.e. the principle of family solidarity. Maintenance allowances are generally paid voluntarily, primarily because of the personal ties between family members, but they may also be enforced through the courts.

In Slovenia the term maintenance is used to refer to the maintenance of (former) spouses, children, and parents. It means maintenance and support, as well as maintenance and support payments, which a court grants for a child. Thus, it covers everything that a person is legally obliged to devote to the living needs of his/her children or spouse. The term may also be used for the upkeep of parents who do not have sufficient funds to support themselves and whose children are therefore obliged to support them. The term can also refer to maintenance payments as monetary amounts allocated for maintenance.

Parents are obliged to support their **children**. (Article 103 of the Marriage and Family Relations Act)

Adult children are obliged within their capacities to support their **parents** if the latter do not have sufficient means of support and are unable to acquire such means. Adult children are not obliged to support a parent who failed to fulfil their maintenance obligations to that child without justification. (Article 124 of the Marriage and Family Relations Act)

Spouses or extramarital partners are obliged to support **their spouse's or extramarital partner's minor children** who live with them, unless that or another parent is capable of supporting the child. The spouse's or extramarital partner's obligation ceases upon the cessation of their marriage or extramarital union with the mother or father of the child, unless the marriage or extramarital union ceases due to the death of the child's mother or father. In that event the surviving spouse or extramarital partner is obliged to support the child of his/her deceased spouse or extramarital partner only if they lived with the child at the time of the cessation of the marriage or extramarital union. (Article 127 of the Marriage and Family Relations Act)

A **spouse** who has no means of support and is unemployed through no fault of their own has the right to receive support from their spouse, to the extent they are capable of providing. (Article 50 of the Marriage and Family Relations Act)

An **unsupported spouse** may demand maintenance in divorce proceedings, and also in a separate lawsuit which they must file within one year of the date that the divorce becomes final. (Article 81a of the Marriage and Family Relations Act)

2 Up to what age can a child benefit from a maintenance allowance? Are there different rules for maintenance concerning minors and adults?

Parents are obliged to support their children until **adulthood**, such that in accordance with their means and abilities they provide the living conditions necessary for the child's development.

If the child **regularly attends an educational establishment**, even if enrolled in part-time studies, the parents are obliged to support the child into adulthood, but no longer than after the child has reached **twenty-six years** of age.

Parents are obliged to support children who have entered a marriage or are co-habiting in an extramarital union only if their spouse or extramarital partner is unable to support them.

3 Should I apply to a competent authority or a court to obtain maintenance? What are the main elements of this procedure?

For maintenance which an **adult child is liable to pay to his/her parents**, the recipient and the liable party may conclude an **agreement in the form of a notary record**. (Article 130a of the Marriage and Family Relations Act)

If parents agree on **child support**, they may propose that the **court issue a decision thereon in a non-litigious procedure**. If the court establishes that the agreement is not in the child's interests, it rejects the proposal. (Article 130 of the Marriage and Family Relations Act)

An **unsupported spouse** may demand maintenance from their spouse in divorce proceedings, and also in a separate **lawsuit** which they must file within one year of the date that the divorce becomes final. (Article 81a of the Marriage and Family Relations Act)

In the event that no agreement on support is concluded, a lawsuit must be filed at the competent court. District courts have **subject-matter jurisdiction** over decisions on maintenance. (Article 32 of the Civil Procedure Act)

The **lawsuit** must include a specific request setting out the main subject of the case and the side claims, the facts supporting the plaintiff's request, evidence substantiating those facts, and other data that every action is obliged to contain (Article 180 of the Civil Procedure Act).

Pursuant to that Act, an application includes the lawsuit, the response to the lawsuit, legal redress and other statements, proposals or communications submitted outside of the proceedings. Applications must be comprehensible and must include everything required for judicial hearing. In particular they must include: a reference to the court, the names and permanent or temporary residence of the parties, the names of the legal representatives or agents, the subject of the dispute and the content of the statement. The applicant must sign the application unless this is impossible due to the form of the application. The applicant's original signature shall be deemed to be his/her handwritten signature as well as a secure electronic signature verified by means of a qualified certificate. If the statement includes any request, the party must state in the application the facts to which they refer, and evidence where required. (Article 105 of the Civil Procedure Act)

Court fees must be paid upon filing a lawsuit. Court fees must be paid no later than by a deadline determined by the court in the order for payment of the court fees. (Article 105a of the Civil Procedure Act)

Applications must be filed in **writing**. 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 a secure electronic signature verified by means of a qualified certificate. A written application is submitted by post, electronic means, using communication technology, delivered directly to the body or delivered by a person engaged professionally in submitting applications (commercial supplier). Electronic applications are submitted to the information system by electronic means. The information system automatically confirms to the applicant that the application has been received. Applications can also be filed using a prescribed or ad hoc form. (Article 105b of the Civil Procedure Act)

Applications that have to be served on 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 serve them. This also applies to supplements. Applications and supplements submitted electronically which must be served on the opposing party are sent in a single copy. The court makes as many electronic copies or photocopies as required by the opposing party. (Article 106 of the Civil Procedure Act) Documents enclosed with the application may be **originals or copies**. (Article 107 of the Civil Procedure Act). Despite the legal basis being in place, the technical conditions for the electronic submission, service and management of documents in legal proceedings are not yet fulfilled.

4 Can a request be made on behalf of a relative (if yes, what grade), or a child?

Requests for maintenance are submitted by the child's **legal representative**. Minor children are represented by their parents. If the child has been entered in foster care, the request is submitted by the child's guardian.

The court must enable **children who have reached the age of fifteen** and are **able to understand the meaning and legal consequences of their actions** to carry out their procedural actions independently as parties to the proceedings. The child's legal representative may carry out actions in proceedings only if the child does not state that they are assuming the right. **Children under the age of 15** or whom the court rules are **not able to understand the meaning and legal consequences of their actions** are represented by a **legal representative**.

If the interests of the child and his/her legal representative differ, the court assigns the child a **special representative**. The court also behaves in this manner in other cases, if in view of the circumstances of the case it rules that this is necessary in order to protect the child's interests. (Article 409 of the Civil Procedure Act)

5 If I plan to bring the case to court, how do I know which court has jurisdiction?

District courts have **subject-matter jurisdiction** over decisions on maintenance. (Article 32 of the Civil Procedure Act)

The court in which the defendant has their permanent residence has general **territorial jurisdiction**. If a court in Slovenia has jurisdiction because the defendant has temporary residence in Slovenia, the court in which the defendant has temporary residence has general territorial jurisdiction. If in addition to their permanent residence the defendant also has temporary residence in another town and it can be assumed owing to the circumstances that they will live there for a long period of time, the court with jurisdiction over the defendant's temporary residence also has general territorial jurisdiction. (Article 47 of the Civil Procedure Act)

If in a dispute over legal maintenance the plaintiff is the person requesting maintenance, the court with jurisdiction over the area in which the plaintiff has permanent or temporary residence also has general territorial jurisdiction. If in a dispute over legal maintenance with an international element a court in Slovenia has jurisdiction because the plaintiff is a child with permanent

residence in Slovenia, the court with jurisdiction over the area in which the plaintiff has permanent residence has territorial jurisdiction. If in a dispute over legal maintenance a court in Slovenia has jurisdiction because the defendant has property in Slovenia from which maintenance could be paid, the court with jurisdiction over the area in which that property lies has territorial jurisdiction. (Article 50 of the Civil Procedure Act)

6 As an applicant, do I have to go through an intermediary to bring the case to court (e.g. a lawyer, central or local authority, etc.)? If not, which procedures apply?

Parties may carry out legal actions in person or via a proxy. In proceedings before a district court, the proxy may only be a lawyer or other person who has passed the state bar examination. (Articles 86 and 87 of the Civil Procedure Act)

7 Do I have to pay fees to bring a case to court? If so, how much are they likely to be? If my financial means are insufficient, can I obtain legal aid to cover the costs of the procedure?

Yes, **court fees** must be paid upon filing a lawsuit. Court fees must be paid no later than by a deadline determined by the court in the order for payment of the court fees. (Article 105a of the Civil Procedure Act)

If the legal claim concerns only the right to legal maintenance or claims for individual amounts of legal maintenance, the court fees are assessed based on the value of the matter at issue, which is calculated such that **three months' contributions are added together**, unless maintenance for a shorter period of time is requested. (Article 23 of the Court Fees Act)

However, if maintenance is sought as part of child custody proceedings, the court fee to be paid is a fixed sum of 45 euros (heading 1212 of the schedule of fees under the Court Fees Act).

Yes, free legal aid is available in order to cover the costs of the proceedings. The president of the district court decides on the allocation of free legal aid. (Article 2 of the Free Legal Aid Act)

Waiving, deferment or payment by instalments of court fees must be requested separately, such request being submitted to the court handling the main proceedings (Article 12 of the Court Fees Act).

8 What kind of maintenance is likely to be granted by the court? How is the amount of maintenance calculated? Can the court's decision be revised, if living costs or family circumstances change? If yes, how (e.g. by means of an automatic indexation system)?

Maintenance is set as a monthly sum paid in advance, and may be claimed from the moment a maintenance suit is filed. (Article 132c of the Marriage and Family Relations Act)

Maintenance is determined with due regard for the needs of the claimant and the material and earning capacities of the debtor. (Article 129 of the Marriage and Family Relations Act)

In assessing maintenance for children, the court must act in the child's best interest, setting a level that is adequate to ensure the child's satisfactory physical and mental development. The maintenance must cover the child's living expenses, in particular the costs of accommodation, food, clothing, footwear, care and protection, education, schooling, recreation, amusement and other special needs. (Article 129a of the Marriage and Family Relations Act)

The courts may at the request of the recipient or liable party increase, decrease or remove a given maintenance requirement by use of an enforcement instrument if there is a change in the recipient's needs or the capacities of the liable party on the basis of which the maintenance was determined. (Article 132 of the Marriage and Family Relations Act).

The maintenance set by the enforcement instrument is adjusted once a year in line with the consumer price index in Slovenia. The adjustment is carried out in March using the cumulative rise in consumer prices from the month in which the maintenance was most recently determined or adjusted. The adjustment factor for maintenance is to be published in the Official Gazette of the Republic of Slovenia by the minister responsible for families. The social welfare centre informs the creditor and the debtor of each adjustment and the new amount of maintenance in writing. The notice from the social welfare centre, together with the court settlement, the final court decision or the enforceable notarial act, constitutes an enforcement instrument (Article 82d of the Marriage and Family Relations Act).

9 How and to whom will the maintenance be paid?

This is decided by the court. Child support is usually deposited on the bank account of the child's legal representative. Support for adults is deposited on their bank accounts.

10 If the person concerned (debtor) doesn't pay voluntarily, what action can be taken in order to force him/her to pay?

If a person liable to pay maintenance **does not fulfil his/her obligation to pay maintenance voluntarily** in accordance with the enforcement instrument (judgement, court order, enforceable notarial record, together with a notice of determination of maintenance), the **recipient may submit an enforcement proposal to the court** in accordance with the provisions of the Enforcement and Protection of Civil Claims Act in order to achieve the fulfilment of obligations.

11 Please describe briefly any limitations on enforcement, in particular debtor protection rules and limitation or prescription periods in your enforcement system

The information is available via the e-justice portal: [Procedures for enforcing court decisions](#)

12 Is there an organisation or an authority which can help me to recover maintenance?

Social welfare centres provide initial information about maintenance.

District courts have subject-matter jurisdiction over decisions on maintenance. Parties to proceedings may apply for free legal assistance in the form of representation by counsel and an exemption from the payment of the costs of proceedings.

If the liable party fails to pay maintenance, the child's legal representative or the adult recipient of maintenance may file an enforcement claim with the competent local court. Assistance with completing the enforcement claim is provided by social welfare centres, local courts, legal counsels and the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia.

13 Can organisations (government or private) advance the payment of maintenance wholly or partly in the debtor's place?

If the liable party fails to pay maintenance, the legal representative of the underage child may claim a maintenance payment from the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia, but only on the basis of a final and enforceable court decision or settlement setting out the maintenance amount and on condition that the legal representative has either unsuccessfully attempted to enforce the payment of maintenance him/herself or has issued a duly completed claim for enforcing maintenance abroad.

The right to compensatory maintenance is held by children who are not yet 18 years of age, and:

- are citizens of the Republic of Slovenia with a permanent residence in Slovenia,
- are foreign citizens with a permanent residence in Slovenia, if so decreed in an international treaty or under conditions of reciprocity.

14 If I am in this Member State and the debtor has his/her residence in another country:

14.1 Can I obtain the assistance of an authority or private organisation in this Member State?

Yes. Help in enforcing maintenance decisions is provided by the Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia, designated as the central authority under Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations. The Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia has also been designated as the central authority under the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and as the transmitting and receiving agency under the United Nations (New York) Convention on the Recovery Abroad of Maintenance.

14.2 If so, how can that authority or private organisation be contacted?

The contact details are:

Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia (Javni štipendijski, razvojni, invalidski in preživninski sklad Republike Slovenije)

Dunajska cesta 20

1000 Ljubljana

Telephone: +386 1 4720 990

Fax: +386 1 4345 899

Email  jpsklad@jps-rs.si

Website: <http://www.jpi-sklad.si/>

15 If I am in another country and the debtor is in this Member State:

15.1 Can I address a request directly to such an authority or private organisation in this Member State?

No. Under Article 55 of Regulation (EC) No 4/2009, applications for maintenance enforcement must be made through the central authority of the Member State where the applicant resides, after which that central authority forwards the application to the central authority of Slovenia, i.e. the Public Scholarship, Development, Disability and Maintenance Fund.

15.2 If so, how can that authority or private organisation be contacted and what kind of assistance can I receive?

The Regulation does not provide for direct contacts between an applicant residing abroad and the Public Scholarship, Development, Disability and Maintenance Fund as the central authority.

The central authority of the applicant's Member State of residence handles communication. The central authority of the applicant's Member State of residence provides all the assistance in submitting a correctly and duly completed application for the enforcement of maintenance in Slovenia, and forwards the application, with any annexes, to the Public Scholarship, Development, Disability and Maintenance Fund, which reviews the application, requests any additional information or correction if necessary, and represents the applicant in enforcement proceedings before courts and other bodies in Slovenia.

16 Is this Member State bound by the 2007 Hague Protocol?

Yes.

17 If this Member State is not bound by the 2007 Hague Protocol, which law will be applicable to the maintenance claim according to its private international law rules? What are the corresponding private international law rules?

/

18 What are the rules on access to justice in cross-border cases within the EU following the structure of Chapter V of the Maintenance Regulation?

Free legal aid is available in order to cover the costs of the proceedings. The president of the district court decides on the allocation of free legal aid. (Article 2 of the Free Legal Aid Act)

Free legal aid can be approved for legal advice, legal counsel and other legal services determined by law, for all forms of judicial protection before all courts of general competence and specialised courts in Slovenia, before the Constitutional Court of the Republic of Slovenia and before all bodies, institutions and persons in Slovenia competent for extrajudicial settlement of disputes, and as waiving of the payment of the costs of the judicial procedure. (Article 7 of the Free Legal Aid Act)

Beneficiaries under this Act are: 1. citizens of Slovenia; 2. foreign citizens with permanent or temporary residence permits in Slovenia and persons without citizenship (stateless persons) lawfully residing in Slovenia; 3. other foreign citizens under conditions of reciprocity or under conditions and in cases defined in international treaties binding on Slovenia; 4. Nongovernmental organisations and associations which operate on a non-profit basis and in the public interest and are registered in the corresponding register in accordance with the applicable law, in disputes in connection with the carrying out of activities in the public interest or with the intent for which they were established; 5. other persons for whom the law or an international treaty which is binding on Slovenia prescribes that they are entitled to receive free legal aid. (Article 10 of the Free Legal Aid Act)

Persons who can be beneficiaries of free legal aid may request free legal aid during any phase of the proceedings. In deciding on requests for allocation of free legal aid, the applicant's financial status is determined, as well as other conditions defined in this Act. (Article 11 of the Free Legal Aid Act)

Under Article 46 of the Regulation, such a waiver applies in all cases where the beneficiary's claim arises from Article 56 of the Regulation and relates to maintenance that results from the relationship between parents and children and is due to persons under the age of 21.

19 What are the measures adopted by this Member State in order to ensure the functioning of the activities described in Article 51 of the Maintenance Regulation?

No measures have been adopted to implement Article 51 of Council Regulation (EC) No 4/2009.

The national language version of this page is maintained by the respective EJM contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet

reflected in the translations. Neither the EJN nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Last update: 09/07/2019