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# **SIMPLIFIED PROCEEDINGS FOR SMALL CASES IN SLOVAKIA**

## **Introduction**

One of the ways to increase the efficiency of civil proceedings is simplified proceedings. Simplified proceedings have many advantages, in particular: it saves time and money for the parties during consideration of the case, improves access to justice, and speeds up the trial. On the other hand, such mechanism save court time and resources and focuses the court's attention on more complex cases that require careful study.

Many countries of the European Union have introduced simplified proceedings for small cases in civil proceedings in various forms. In particular, in France, Poland, Ireland, Greece, Croatia, simplified proceedings are manifested in a separate procedure, which is governed by special rules of procedural law of the respective countries. To deal with small cases in Greece and Malta created special courts – Small Claims courts. Countries such as Belgium, Germany, and Austria do not have a clear simplified procedure for considering small cases, but there are certain exceptions in general proceedings for small cases in the legislation of these countries. This is also a kind of simplified procedure.

The Small Claims Procedure also exists at the international level, in particular the European Small Claims Procedure, which is introduced by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 and operates in all EU Member States except Denmark. This procedure regulates the consideration of small civil or commercial cross-border cases, the cost of which does not exceed 5,000 euros [1]. This procedure has already proven its effectiveness, significantly increased access to justice and reduced the cost of the case as well as the time of the case and simplified the case mechanism. The European Small Claims Procedure inspired the Slovak legislators to amend the civil procedure law by adding rules that simplify the proceedings in small cases under certain conditions [2].

### **1. The scope of the procedure and the monetary threshold**

Amendments to the Contentious Civil Procedure Code of the Slovak Republic (Civilný sporový poriadok), which introduced simplifications to the general rules for civil proceedings, were enacted on 1 July 2016. The

Contentious Civil Procedure Code of the Slovak Republic does not have a separate procedure for considering small cases in court. This Code also does not contain a definition of «small cases» or «simplified proceedings in small cases». However, there is a mechanism for considering small cases, although without a normative defined framework, such as the European Small Claims Procedure or simplified lawsuit proceeding in Ukraine<sup>1</sup>.

The Civilný sporový poriadok contains special rules that apply to certain categories of cases with a claim value of no more than 2,000 Euros [2]. Thus, the legislature sets the monetary threshold to determine the claim as a small and this is one of the conditions for considering the case in a simplified procedure [3, p. 113].

According to Art 177 of the Civilný sporový poriadok [4], simplified proceedings in small civil cases may be applied if the claim meets the following conditions:

1. The case can be resolved easily by a court;
2. The factual allegation of the parties are not disputed;
3. Value of the claim is less than 2,000 € (without accessories).

These conditions must be applied together. If the claim does not contain one of the above-mentioned characteristics, then this claim will not be considered in a simplified procedure. For consumer disputes, there are also special conditions for consideration of a case with a low price claim in Art. 297 of the Civilný sporový poriadok. The conditions for a small case are identical to Article 177 of the Contentious Civil Procedure Code of the Slovak Republic, except for the monetary threshold. In consumer disputes, the money threshold is 1,000 euros. Disputes involving consumers have a special role. This is indicated by the legislator when referring these disputes to Section 2 (disputes with the weaker party) Part 3 (Special procedures) in the Contentious Civil Procedure Code of the Slovak Republic. According to Article 290 of of this Code, a consumer dispute is a dispute between a seller and a consumer arising from a consumer contract.

Money thresholds in small cases play an important role as a filter for simplified proceedings. It is necessary to find a balance regarding the amount of the claim that allows the case to be considered in simplified proceedings. A

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1 Article 19 of the Code of Civil Procedure of Ukraine divides contentious proceedings into general and simplified. Simplified proceedings exist in the form of a separate proceeding, which is governed by Chapter 10 of Section 1 of the CPC of Ukraine. The general claim procedure is intended for consideration of cases which due to complexity or other circumstances it is inexpedient to consider in the simplified claim proceedings.

high monetary threshold of the claim will result consideration of many cases under the simplified procedure, and a small monetary threshold will lead to inefficient use of the simplified procedure [4].

It can be said that individual labor disputes may also fall under the simplified mechanism of consideration of the case. Article 316 of the Civilný sporový poriadok defines labor dispute as a dispute between an employee and an employer arising from labor law or other similar relations [3]. Moreover, the legislature does not make any monetary limits for the such case to consider it under a simplified procedure.

The legislator pays special attention to labor disputes due to the nature of these disputes. The employee is in an unfavorable situation because he is entitled to a salary, and the payment of his salary is possible only after a court decision. Also, from the point of view of the employer, the trial may have a negative impact on the normal functioning of the enterprise. For example, in the case of a decision to invalidate the employment relationship, the employer is forced to wait for a court decision and has problems finding a new employee. Thus, all the above reasons have contributed to the formation of a point of view on the need for specialization, which will speed up litigation, the employee and the employer will not be forced wait for a court decision for several months [3, p. 119].

## **2. Beginning of the procedure**

### ***a. The statement of the claim.***

The filing of a statement of claim in simplified proceedings for small cases is governed by the general provisions of the Civilný sporový poriadok. There are no special forms for filing small cases, as it is in the European Small Claims Procedure. However, the introduction of forms that will be filled out by the claimant and the defendant will reduce the defects of procedural documents and reduce the work of the court to process documents and the content of the statements of the plaintiff and defendant [4].

The statement states, in addition to the general requirements, the identification of the parties, a reliable and complete description of the decisive facts, the identification of evidence for their submission<sup>1</sup>.

According to Article 125 of the Civilný sporový poriadok, an application to the court can be submitted in writing, and electronically form. Submission of a written application is possible by mail or in person. Such an application is submitted to the court in quantity according to the number of parties of the case and one application with the relevant annexes to the court. In the absence

<sup>1</sup> Article 132 of the Contentious Civil Procedure Code of the Slovak Republic (Civilný sporový poriadok).

of the appropriate number of documents, the court makes copies at the expense of the person who filed the application.

In case of submission of an electronic application in accordance with the special rules, all documents must be additionally sent in paper form or in electronic form. The electronic application is submitted directly from the portal of the Ministry of Justice of the Slovak Republic or the Central Government Portal only in the Slovak language using an electronic signature or seal [5].

### ***b. Jurisdiction***

For small cases, jurisdiction applies in the same way as for general cases. According to Article 13 of the *Civilný sporový poriadok*, the statement of claim is filed to the court at the location of the defendant. However, there are certain exceptions provided for in Article 19 of the *Civilný sporový poriadok*. In particular, the case may be heard in the court where the defendant is employed, whether there is a fact that gives the right to compensation, or a division of the organization as a defendant, if only the relevant unit is the defendant. As an exception, a claim may be brought in court by the plaintiff's place of residence in the event of a consumer dispute arising from collective labor relations, separate courts provided for in Article 23 of the *Civilný sporový poriadok* shall consider the cases [3, p.120]. Such occasions are provided by the peculiarity of cases, in particular those that fall into the category of small. These are labor and consumer disputes for which the effectiveness of the case is important and consists of a balance of time and money, access to justice and protection of the weaker party (employee, consumer).

### **3. Consideration of the case**

According to the general rules of the simplified proceedings, for the efficiency of simplified proceedings, the dispute of the small cases must be resolved quickly and with minimal costs [4]. The *Civilný sporový poriadok* does not indicate the possibility for the parties to request for a simplified proceeding. The *Civilný sporový poriadok* does not stipulate whether a party has the right to request a consideration of the case in writing or orally, that is the parties do not need to appear in court. The court itself decides this issue if the case falls under the relevant conditions. However, parties can request an oral procedure or the court can deem it necessary, for example, if the case is complex.

Pursuant to Articles 177 and 297 of the *Civilný sporový poriadok*, in simplified proceedings, the case can be considered without a court hearing, provided that the case is simple, the monetary threshold for the amount of the claim does not exceed EUR 2,000 for civil cases and EUR 1,000 for consumer disputes.

Court hearings may not be held in labor disputes. Pursuant to Article 322 of the Civilný sporový poriadok, there is no need to schedule a court hearing if the parties agree to hold written proceedings and this is not contrary to law.

Thus, simplified proceedings for small cases in Slovakia are resolved only in writing. However, it is also worthwhile to develop an oral hearing of small cases in simplified proceedings. For this purpose it is necessary to use means of video communication, to establish time restrictions for the committing of certain procedural actions by the parties, to keep the activity of the court in conducting court proceedings, deviate from the rules of the preliminary hearing. Oral hearings are important for the proper consideration of the case and the principles of a fair trial (establishment of facts, the right of persons to a trial, the right to be heard in court, judicial review). For the above, it is advisable to hold a court hearing, if the court deems it necessary [4].

There are currently no procedural deadlines for considering small cases in simplified proceedings in the Contentious Civil Procedure Code of the Slovak Republic, the deadlines are reduced due to the consideration of cases in written proceedings, and the lack of an oral hearing in court.

Simplified proceedings are characterized by the non-obligation of certain procedural actions, the active participation of a judge [6, p. 116]. Thus, the judge's role is primarily to guarantee the rules of the "game" (disputes), which include the requirement of timely and effective justice. To ensure this function, the court has effective tools to «speed up the proceedings» – within the constitutional limits of due process [7, p. 28]. The activity of the judge is manifested in instructing the parties, which is important. After all, in small cases, individuals do not always represent their interests through a lawyer, who has the legal knowledge and knows the rules of the process. Therefore, the parties may not be aware of the procedural features of small cases. Act № 160/2015 Coll. the Civilný sporový poriadok in § 160 regulates the general obligation of instruction, which the court gives to the parties to the dispute regarding procedural rights and obligations to the extent provided by law. The court does not instruct the parties on how to act in order to succeed in the case, but the court provides information on how the parties should take procedural action and the consequences of such action or it is omission [4].

#### **4. Completion of the case consideration**

##### ***a. Judgment***

Consideration of small cases ends with a judgment. The judgment of the court is made public on behalf of the Slovak Republic.

The content of the judgment in the case, which was considered in simplified proceedings, is similar to the general proceedings. However, the judgment has its own characteristics. As a general rule, a judgment is usually rendered immediately after the hearing. However, under Article 219 of the *Civilný sporový poriadok*, if the court makes a judgment without a court hearing, the court announces the place and time of the public announcement of the judgment on the court's official notice board and on the court's website five days before the court's judgment is announced. The court shall also send the decision to the parties within 30 days from the date of its issuance, unless the chairman of the court decides otherwise for serious reasons [8, p. 223].

In the motivating part of the judgment the court notes the plaintiff's claims, the evidence in the case, the defendant's comments. The court must clearly and concisely explain how the court assessed the arguments of the parties, on what evidence the court based its decision and which evidence the court did not take into account. The operative part of the judgment is binding on the parties and those who became the legal successor of the parties after the judgment becomes final, unless otherwise provided<sup>1</sup>.

In the judgment, the court also indicates the court costs to the parties in accordance with the proportion of the success of the relevant party in the case. In small cases, court costs are also important. The award of costs to the party must be real, consistent with the actual costs incurred by the party. Legal costs must comply with the principle of proportionality. That is, the excessive costs in a small case that could have been avoided will not be reimbursed by the court. The court may not award costs to the party if there are not good reasons for doing so<sup>2</sup>.

In accordance with paragraphs 1 and 2 of the § 262 of the *Civilný sporový poriadok*, the court decides on the right to reimbursement of costs even without announcing the judgment to terminate the proceedings. The court of first instance decides on the amount of compensation for costs after the final judgment to terminate the proceedings.

#### ***b. Execution of a court decision***

According to § 232 of the *Civilný sporový poriadok*, the execution of a judgment is a feature that imposes an obligation to execute the relevant judgment, which consists in the possibility of its direct and immediate execution by legal means. In the judgment, the court shall specify the terms of execution

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1 Article 228 of the Contentious Civil Procedure Code of the Slovak Republic (*Civilný sporový poriadok*).

2 Article 257 of the Contentious Civil Procedure Code of the Slovak Republic (*Civilný sporový poriadok*).

of the judgment, unless otherwise provided by law. The term of execution of the court decision is three days, although in justified circumstances this term may be set longer.

The price of the claim also affects the execution of the court decision. In the case of enforcement of a claim for recovery of a monetary claim, which without accessories does not exceed 2000 euros without the date of service of the application for enforcement, enforcement can not be carried out by special regulation. The right to establish a precautionary right to immovable property is not affected [6]. Small cases are a safeguard in enforcement cases. Enforcement of a court decision in small cases may not be carried out by selling real estate in which the debtor has a registered permanent or temporary residence in accordance with special rules. The right to pledge real estate is not affected.

In case of voluntary non-execution by the debtor of the court decision, which has entered into force, the creditor has the right to file a petition for enforcement. Thus, enforcement proceedings are initiated on the application of the person who has the right to demand compliance with the requirement in accordance with the writ of execution. After filing a petition for execution, the court will consider it and issue an authorization, and deliver it to the bailiff, who will ensure its execution [9].

### **5. The possibility of appeal**

In the judgment the court indicates the possibility of appealing the decision, the period during which a person can appeal the judgment, and under which conditions it can be done. The procedure for appealing small cases is similar to ordinary cases. That is, there are no exceptions or procedural filters for small cases in the appeal process. An appeal may be filed within 15 days from the moment of the court decision making [2].

The appeal must contain the name of the court to which the appeal is addressed, the parties to the case, the number and the case to which it relates, the decision to which it is addressed, the extent to which it is appealed, the grounds of appeal<sup>1</sup>.

An appeal is possible due to the following conditions:

- procedural conditions were not met;
- the court due to incorrect procedure prevented the party from exercising its rights due to which the right to a fair trial was violated;
- the wrongly appointed court or the trial was conducted by a dismissed judge;

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1 Article 363 of the Contentious Civil Procedure Code of the Slovak Republic (Civilný sporový poriadok).

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- the trial court rejected or failed to examine the proposed evidence necessary to establish the decisive facts;
  - the trial court reached incorrect factual conclusions on the basis of the evidence presented;
  - the facts were not substantiated because no other remedies or assaults were used;
  - the decision of the court of first instance is based on an error of law in the case.

Once an appeal has been lodged in accordance with the law, the decision does not take effect until the appellate court has rendered a lawful decision on the appeal [4].

As a general rule, evidence that has not been used in a court of the first instance may not be used in a court of appeal. Exceptions to this rule are means of procedural protection or procedural attack which relate to procedural conditions, the removal of a judge, or the incorrect composition of the court. Such means must prove that there were deficiencies in the process that could have led to an incorrect judgment in the case, or that the appellant could not have applied to them during the proceedings in the court of the first instance without his fault.

The trial may be conducted in writing without summoning the parties of the case or in a court hearing summoning the parties. To hear an appeal, the appellate court shall schedule a hearing whenever the evidence needs to be repeated or supplemented, or when an important public interest so requires. The Court of Appeal may reject the appeal if the complaint was filed in violation of procedural deadlines, the complaint was filed by an unauthorized person for such actions, the complaint was filed against a court decision against which the appeal is inadmissible, the complaint does not meet procedural requirements<sup>1</sup>. The appellate court may leave in force the judgment of the court of the first instance if it is correct. If the appellate court fully agrees with the reasoning of the contested judgment, it may confine itself to reasoning by stating the correctness of the reasons for the contested decision or add other reasons to emphasize the correctness of the contested judgment. The Court of Appeal shall amend the judgment of the court of the first instance if the conditions for its confirmation or cancellation are not confirmed<sup>2</sup>.

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1 Article 386 of the Contentious Civil Procedure Code of the Slovak Republic (Civilný sporový poriadok).

2 Article 388 of the Contentious Civil Procedure Code of the Slovak Republic (Civilný sporový poriadok).



The appellate court may satisfy the appeal and set aside the judgment of the court of the first instance under the following conditions: the procedural conditions were not met, the court improper procedure prevented the party from exercising its procedural rights to the extent that the right to a fair trial was violated may be corrected during the proceedings in the appellate court; the court of the first instance did not take the proposed evidence due to an error of law in the case if it is impractical to supplement the evidence by the appellate court; the reasons for which the judgment was issued ceased to exist or if such reasons did not exist.

### **Conclusions**

There is no simplified procedure for small cases in civil proceedings in Slovakia as a separate, clearly defined mechanism. However, the Contentious Civil Procedure Code of the Slovak Republic contains rules that simplify the trial of small cases in court. Slovak law does not contain a definition of simplified proceedings or small cases, but provides for exceptions in which some categories of cases are heard in court more quickly and simply than general cases.

The peculiarities of the simplified proceedings of Slovakia in small cases are the presence of a clearly defined list of features of small cases, written proceedings, the absence of mandatory participation of a representative of the party.

In fact, the legislator divides small cases into two groups: general and special. The signs of the first group of small cases are: extension to different types of cases, the case is easy to resolve, the price of the claim does not exceed 2,000 Euros. The Slovak legislature considers consumer and labor disputes (which can also be easily resolved and have a certain monetary threshold) to be special small cases.

Small cases are considered in a simplified manner by the court in written proceedings. The *Civilný sporový poriadok* does not give the parties the right to request a hearing in simplified procedure, not does it prohibit the parties from taking such action. It would be expedient to enshrine in law the possibility for the parties to file a petition for consideration of the case in simplified proceedings.

An appeal in summary proceedings is governed by a general rule, so Article 228 of the Contentious Civil Procedure Code of the Slovak Republic does not contain any special restrictions on the lodging of an appeal.

*1. Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure*

- [Electronic resource]. EUR-Lex – URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02007R0861-20170714>.
2. *Evaluation of the judicial systems (2016-2018 cycle). Slovakia.* [Electronic resource] / Council of Europe. – 2018. – URL: [https://www.law.muni.cz/sborniky/cofola2008/files/pdf/mps/judova\\_elena\\_tyrolova\\_marta.pdf](https://www.law.muni.cz/sborniky/cofola2008/files/pdf/mps/judova_elena_tyrolova_marta.pdf).
  3. *Pracovný súdny poriadok (Riešenie sporov v pracovnom práve)* / Juraj Hamulák, Vladimír Minčíč, Robert Schronk a kolektív – 1. vyd. – Bratislava : Univerzita Komenského v Bratislave, Právnická fakulta, 2016. – 142 s.
  4. *Zákon č. 160/2015 Z.z. Civilný sporový poriadok.* [Electronic resource]. Slov-Lex. URL: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/160/>.
  5. *Věcný Záměr Civilního Řádu Soudního.* [Electronic resource] / Justice. CZ. – 2018. – URL: <https://crs.justice.cz/#hlava-iii-rizeni-v-nepatrných-vecech>.
  6. *The Recast Civil Procedure And Legacy Of Franz Kline In The Slovak Republic* / Marek Števček, Tomáš Gábriš – *EJTS European Journal of Transformation Studies* 2020, V. 8, No. 2.
  7. *Within a reasonable time: a joint responsibility* / W.D.H. Asser. – *The Law's Delay - Essays on Undue Delay in Civil Litigation.* Remco Van Rhee, 2004. – 398p.
  8. *Speeding up civil litigation in Austria: past and present instruments* / P. Oberhammer. – *The Law's Delay - Essays on Undue Delay in Civil Litigation.* Remco Van Rhee, 2004. – 398p.
  9. *Ako vykonať súdne rozhodnutie. Slovensko.* [Electronic resource] / *European e-Justice Portal.* – URL: [https://e-justice.europa.eu/content\\_procedures\\_for\\_enforcing\\_a\\_judgment-52-sk-maximizeMS\\_EJN-sk.do?member=1](https://e-justice.europa.eu/content_procedures_for_enforcing_a_judgment-52-sk-maximizeMS_EJN-sk.do?member=1).

#### **Ostapiak Mykola. Simplified proceedings for small cases in Slovakia**

This article focuses on the idea of simplified civil proceedings in Slovakia. The Slovak Republic, which is a member of the European Union, has adopted EU regulations. In particular, the European Small Claims Procedure. This procedure has inspired Slovak legislators to reconsider the conditions for dealing with small cases in civil proceedings. As the consideration of small cases by the court in general is often unfavorable for the parties, the parties refuse to defend their rights. And if a small case is heard in court, the money and time spent on the case is disproportionate to the result. In such cases, the person's right to access to justice and trial within a reasonable time, the principle of proportionality, is violated. Thus, special conditions of consideration were created for individual small cases.

Simplified proceedings in Slovakia do not have a clear mechanism. It is a legal norm that creates exceptions to the general rules of consideration for certain categories of cases in civil proceedings. Slovak legislators do not provide a definition of «small case», but simply establish a list of conditions under which a judge may classify a

case as small. As in the European Small Claims Procedure, such conditions include: simplicity of the case, clear monetary threshold, certain categories of cases (labor and consumer disputes). The judge decides on the consideration of such cases in a simplified procedure. The case is considered in writing, without summoning the parties to court and without the obligatory participation of a lawyer for the parties. The judgment and its execution is in accordance with the general procedure of the legislation of Slovakia. The Civilný sporový poriadok does not provide special conditions for appealing a court decision taken in the framework of simplified civil proceedings.

**Key words:** simplified proceedings, small cases, Slovak Republic, civil proceedings, Code of Civil Procedure of Slovakia, reasonable time for consideration of the case, access to justice, European Small Claims Procedure.