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Collective Redress  
in CEE & SEE

Slovak Republic

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## a) Current collective redress regime

- **What forms of collective redress are available in the Slovak Republic?**

On 25 July 2023, Act No 261/2023 Coll. on actions for the protection of collective interests of consumers (the “**Slovak Collective Redress Act**”) came into force, providing a statutory framework for collective redress. The Act introduces a procedure for redress in which the court can impose one or more remedies on a company in protection of the rights of consumers (“**Procedure for Redress Measures**”). It also reforms the “abstract control” procedure in consumer matters; in this procedure, the court is asked to examine the fairness of contractual terms stipulated in a consumer contract or other related document, without taking into account the circumstances of a particular consumer’s case (the “**Abstract Control Procedure**”).

In addition to the Procedure for Redress Measures and the Abstract Control Procedure provided for in the Slovak Collective Redress Act, the Slovak Code of Civil Procedure also provides the option to consolidate multiple claimants and their claims into a joint action. However, joint-action proceedings generally do not differ from ordinary proceedings under the Slovak Code of Civil Procedure and, therefore, they apply to all claims that can be pursued in civil courts.

This chapter focuses primarily on the recently enacted Slovak Collective Redress Act.

## b) Key features of collective action in the Slovak Republic

- **Are collective actions available in all areas of law or only in certain sectors?**

The Procedure for Redress Measures and the Abstract Control Procedure apply to infringements of consumer protection law, as well as to compensation for damage caused by infringements of competition law.

- **Who is entitled to bring an action (e.g. individuals, groups, qualified entities)?**

The Procedure for Redress Measures and the Abstract Control Procedure can only be initiated by qualified entities or a supervisory authority (“**qualified entity**”).

- **Which mechanism applies – opt-in, opt-out or both?**

The Procedure for Redress Measures requires the active involvement of consumers. Consumers are not automatically involved in proceedings, but to actively participate they must opt into the notice of action (an opt-in mechanism applies). To opt into the action, the consumer must pay a lump-sum fee of EUR 20.

- **What are the requirements to bring an action? Is there a minimum claims threshold?**

The main requirement is that a group must be comprised of at least 20 consumers, with a qualified entity acting on their behalf.

At least two months before bringing an action to initiate a Procedure for Redress Measures, the qualified entity must publish a notice of action in the Commercial Gazette and invite consumers to join the action. Two months after the notice of action has been published in the Commercial Gazette, and once a minimum of 20 consumers have joined the action, the qualified entity may bring the action against the tortfeasor under the Procedure for Redress Measure. Consumers who have opted in cannot be involved in other collective or individual proceedings concerning the same matter and against the same defendant.

Before initiating an Abstract Control Procedure, the qualified entity must enter into consultation with the tortfeasor about the infringement. If the tortfeasor does not cease the infringement within 14 days of receiving the request for consultation, the qualified entity may bring the action. Individual consumers do not need to participate in Abstract Control Proceedings.

- **What remedies are available (e.g. monetary compensation, injunctive measures, redress measures)?**

In the Procedure for Redress Measures, remedies such as monetary compensation from the tortfeasor and other redress measures are available.

In the Abstract Control Procedure, the court may prohibit the tortfeasor from using a contractual term, or any term with a similar meaning which the court finds unfair, in any consumer contract or other related contractual documents. Alternatively, the court may prohibit the tortfeasor from engaging in unfair business practices or violating consumer protection laws. The court's ruling in an Abstract Control Procedure is binding not only on the parties at dispute (*inter partes*) but also on all parties (*erga omnes*).

- **In claims for damages, does loss need to be collectively established or is individual proof required?**

In a Procedure for Redress Measures, individual proof is required. Each consumer must specify, among other things, the facts and legal basis supporting their claim and must include the contract with the company in question in their application to join the collective action. If the court orders the tortfeasor to pay monetary compensation, it will quantify the individual claims of each consumer that has opted into the procedure.

- **What types of damages are recoverable (e.g. economic loss, damage to property)?**

The Procedure for Redress Measures provides for remedies for pecuniary damage resulting from bodily injury, damage to property, immaterial damage and economic loss. Slovak civil law does not recognise the concept of punitive damages.

- **How are damages quantified? On what basis are damages divided among class members?**

Damages are typically determined based on the specific circumstances of the case, including the extent of harm suffered by each individual class member. This process ensures that each class member is awarded redress equal to the actual damage actually suffered. If the qualified entity is successful in the Procedure for Redress Measures, the decision can subsequently be enforced jointly in a single enforcement proceeding.

- **What is the settlement structure, if any?**

In Procedures for Redress Measures, the qualified entity can reach a settlement with the tortfeasor. The qualified entity must notify each opted-in consumer of its intention to enter into a settlement at least 15 days before its conclusion. If an opted-in consumer does not agree to the settlement, that consumer may withdraw their opt-in notice within ten days of receiving notification of the intention to enter into a settlement. The settlement is subject to court approval; the court examines the settlement and must approve it unless it is contrary to generally applicable law or good morals.

## c) Collective redress proceedings

- **How are court proceedings managed? Are there any typical procedures used in the context of collective redress?**

The first step in a Procedure for Redress Measures is to assess whether the qualified entity meets the prerequisites to initiate the process. The general provisions of the Slovak Code of Civil Procedure apply in Procedures for Redress Measures and Abstract Control Procedures.

The peculiarity of the Procedure for Redress Measures lies in the fact that the court must order pre-trial discovery before the first hearing.

Meanwhile, a special feature of the Abstract Control Procedures is that no oral hearing needs to be convened.

- **Is there a deadline by which claimholders must join proceedings?**

Individual consumers can participate in Procedures for Redress Measures by opting into the notice of action. They may do so even after the court proceedings have commenced, but no later than the closing date for the admission of evidence with the court of first instance.

- **Are there any time limits on initiating court proceedings?**

Since there are no specific or separate provisions concerning the Procedure for Redress Measures or the Abstract Control Procedure, the general statute of limitations under the Slovak Civil Code applies. Consequently, the general limitation period is three years from the moment the right could first be exercised.

- **Is pre-trial discovery available?**

The Slovak Code of Civil Procedure does not provide for a pre-trial discovery process akin to that which is found in common law jurisdictions like the United States. Slovak civil procedure typically involves the exchange of evidence during the proceedings, with parties submitting relevant documents and information to the court as part of their pleadings and during the trial phase. However, during civil proceedings, courts – at the request of a party – can order the opposing party or third parties to disclose certain documents and information.

## d) **Costs and funding of collective actions**

- **Is there a rule as to who has to bear the court fees / legal fees? Does the “loser pays” principle apply?**

The “loser pays” principle applies, with the unsuccessful party required to bear the prevailing party’s costs of the proceedings. Consequently, the successful party is entitled to recover necessary and appropriate costs, encompassing court fees, other incidental expenses and their own legal costs. Legal fees are calculated based on the Slovak Lawyers’ Tariff Decree, whereas court fees are calculated according to the Slovak Court Fees Act. If a party is only partially successful, the legal costs are divided between the parties on a *pro rata* basis.

Only the qualified entity and the company are deemed to be parties to the Procedure for Redress Measures and the Abstract Control Procedure. In general, a consumer who has opted into a Procedure for Redress Measures cannot bear any fees other than the application fee to opt into a notice of action and the fee for withdrawing an opt-in application.

- **How are the costs of proceedings shared among class members?**

The costs of the Procedure for Redress Measures are borne only by the qualified entity or a third party funding the litigation. Opted-in consumers may only be charged the fee for joining the notice of action (EUR 20) and the fee for withdrawing consent to join the notice of action (EUR 10). On an exceptional basis, an opted-in consumer may be ordered to pay costs incurred as a result of their own fault or negligence.

- **Is third-party litigation funding permitted in the Slovak Republic?**

The costs of the Procedure for Redress Measures may be funded by a third party.

- **Are there any restrictions on third-party litigation funding?**

The qualified entity must not be influenced by a third party such to harm the collective interests of the consumers affected by the action. Additionally, an action must not be brought against a defendant who is a competitor of the third party funding the litigation or against a defendant on whom the third party is dependent. In the event of an infringement relating to the conduct or position of a third party, the court must order the qualified entity to refuse or alter the funding of the action. If the qualified entity fails to comply with these requirements, the court must dismiss the action.

- **Are contingency fees permitted in the Slovak Republic?**

Contingency fee arrangements between clients and attorneys are permitted by Slovak law.

## e) Jurisdictional implications

- **Are there any limitations on cross-border collective actions?**

In the context of cross-border litigations, limitations are placed on the international jurisdiction of Slovak courts under both international and European procedural law (e.g. Brussels I Regulation (recast)). Actions are frequently required to be initiated in the country of origin: specifically, where the harm occurred.

- **Can claims be brought by residents from other jurisdictions?**

In general, the international jurisdiction of Slovak courts is not limited to parties residing in Slovakia. However, the limitations of international jurisdiction in cross-border cases necessitate that, in the absence of a jurisdiction agreement between the parties, a connection must exist with the jurisdiction of the Slovak courts. Such a connection arises, for example, when the place of damage is in Slovakia or when a company is seated or registered in Slovakia.

## f) **Developments and reforms in collective redress**

- **Are there any expected developments / reforms in this area?**

The first qualified entities have been registered for the purposes of the Procedure for Redress Measures; however, up to 1 June 2024 no actions had yet been lodged. The main reason why this procedure has not been used in practice is likely the significant administrative requirements for initiating and joining Procedures for Redress Measures. It will be interesting to monitor whether the Slovak legislator take steps to streamline these demands.

## g) **Risk assessment**

- **How frequently are collective actions brought each year and in what areas are they most common?**

There are no published annual statistics on the number of collective actions brought before Slovak courts under the Slovak Code of Civil Procedure. As for the Procedure for Redress Measures, no collective claims have yet been brought.

- **Based on the information provided above, is the risk to companies of facing collective actions high / medium / low?**

Low risk.

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