



EURAVOCAT LAW HANDBOOK

DEBT COLLECTION IN SLOVAKIA

From our member in Bratislava



1. Amicable collections

General information

Usually, as the first step the so called amicable debt recovery actions are tried, e. g. sending letter by post or by mail, and/or phone calls with debtor or its legal representative. It is not mandatory to send the certain amount of letters to the debtor

before the lawsuit is filed, however, it is common to send to the debtor maximum of three (3) letters.

Interest

The debtor is always asked to pay voluntarily also interest, either in the amount established in the contract (general conditions) or in the amount established by law. Currently, there is the interest rate in May 2023 set at 11,75%.

Debt collection costs

The amount of compensation for administrative collection costs associated with the application of claim is EUR 40, regardless of the length of the delay.

Limitation period

According to Slovak law, in general, the prescription period in the commercial relationships is 4 years starting normally on the day the invoice is payable and is also claimable in the court proceedings (actio nata).

Sources of information

In Slovakia, we have access to the database of the business information partner, Creditreform. We have also access to the Register of statements of finances (account balance), which is public, and access to the FinStat database including financial reports and risk evaluations of Slovak companies.

Using the available information from these reports, we can indicate possible issues in respect of recovering the debt also within the legal action proceedings.

2. Retention of title

According to Slovak Commercial Code (article 445), it is possible to reserve the legal ownership of the goods to the supplier (seller), if the ownership is associated with a certain goods, through the incorporation of the retention clause in the contract. The clause must be formulated in writing and expressly accepted by the buyer.

Legally, the supplier, having sold goods with the retention of title clause, is protected against legal measures that may come to affect him, as in the case in insolvency or in executive proceedings.

3. Safeguarding measures

Typically, the debtors may offer various forms of security such as bank guarantees, pledge, mortgage, contractual liability, or acknowledgement of a debt signed by the debtor which can be used by the creditor as evidence in court proceedings.

4. Legal collections

There are two kinds of legal proceedings which can be used in order to claim the debt:

- Payment order proceeding (Konanie o vydanie platobného rozkazu/upomínacie konanie): The procedure begins with the submission of a proposal for issuing a payment order. The person whose right to pay the certain amount against the debtor can be reasonably assumed is entitled to ask for issuing a payment order. If the creditor and debtor are accounting entities, it is sufficient to attach an invoice or other request of a similar nature which demanded the fulfilment of the claim from the debtor and declare that the claim is registered by the creditor (claimant) in its accounting. There is no limitation of the amount which can be sued by the creditor.
- Civil court proceeding (Konanie o nároku podľa CSP): The procedure is the typical judicial process applicable when it is already known that debtor will strongly oppose the claim. In fact, in such a case it is always possible to ask for the issue of the payment order, but if it is expected the debtor will refuse such claim, it is recommendable to avoid such proceeding.

Evidence:

- Payment order proceeding:
 - copies of issued invoices,
 - power of attorneys (notarisation not needed),
 - excerpt from Commercial register of the claimant (if the foreign entity).

- Civil court proceeding:
 - copies of issued invoices,
 - contract or other supportive documents confirming the sell of goods/providing services (mail communication, CMR)
 - any documents signed by the debtor in which the debtor acknowledges the debt,
 - power of attorneys (notarisation not needed),
 - excerpt from Commercial register of the claimant (if the claimant is foreign entity).

Court fees:

Fees for issue a Payment order and fees for issue a judgement in the Civil court proceeding: 6% from value of the dispute (outstanding principal amount), nominally at least EUR 16,50.

The maximum court fee the court may charge in the commercial relationship is EUR 33.193,50.

However, there can be also further court fees to be charged during the proceedings, e. g. for the appeal.

Further steps:

- Payment order proceeding:
 - It takes approximately not more than 30 days and the court will issue a payment order.

- The payment order needs to be delivered to the debtor; if the delivery is not successful, the court will ask the creditor (claimant) to declare that the continuation within the usual civil court proceeding is requested. In such a case the court will cancel the payment order and submits the agenda to the relevant court.
- The debtor can appeal against the payment order (Odpor); in such a case, the court will also cancel the payment order and submits the agenda to the relevant court, if the creditor (claimant) declares that the continuation within the usual civil court proceeding is requested.
- Civil court proceeding:
 - There is no prescribed period for issue of the judgement; in Slovakia, based on the court and type of dispute, it can take years to obtain an enforceable judgement.
 - Normally, there are several hearings in order to present evidence.
 - The party can appeal against the judgement issued by the court in the first instance within 30 days after delivery of judgement.

- There are also extraordinary remedies applicable against decisions of the higher courts (Dovolanie, obnova konania).

5. Insolvency proceedings

Bankruptcy proceeding

In general, the aim of the bankruptcy proceedings is to pay out all creditors the same percentages of their debts' value by liquidating the assets of the debtor. According to Slovak law, the debtor and the creditor may apply for bankruptcy proceeding.

The creditor may apply for bankruptcy proceeding if he can reasonably assume the insolvency of his debtor or if the bankruptcy of the debtor is assumed due to the publication of a special notice in the Slovak Commercial Journal. The debtor's inability to pay can be reasonably presumed if the debtor is more than 90 days in arrears with the fulfilment of at least two monetary obligations to more than one creditor and has been requested in writing by one of these creditors to pay. The creditor has to indicate his claim 90 days after the due date and to indicate another creditor with claim also 90 days after the due date.

The creditor has to support his claim with the appropriate evidence, e. g.:

- written acknowledgment of the debt signed by the

debtor signed before the public notary, or

- enforceable decision/judgement, or
- confirmation issued by the auditor, that the creditor records the claim in the accounting in accordance with the accounting regulations.

The creditor has also to pay the fee in the amount of EUR 1.500.

Once the bankruptcy is declared by the court, the creditor is entitled to lodge his claims within 45 days. The bankruptcy trustee has the right to dispute the claim lodged by the creditor. If the claim is recognised, the creditor has the right to take part and vote at the meeting of creditors.

At the meeting the members of the creditors' committee are voted (3 or 5 members). This committee is entitled to instruct the bankruptcy trustee in terms of selling of assets of the debtor.

The bankruptcy proceedings are usually lengthy (several years). The unsecured creditors can expect only small part of their claims to be paid (0-5%). Only rarely can be achieved higher percentual rates.

Restructuring proceeding

The aim of the restructuring is to help companies with financial/liquidity problems. Once the restructuring proceeding is approved by the court, the creditors are entitled to lodge their claims within 30 days.

During the restructuring proceeding all processes (lawsuits, insolvency requests) are paralysed and activated again when the proceeding ends.

The restructuring plan is negotiated with the creditors (there is also meeting of creditors and creditors' committee). The plan pre-approved by creditors' committee has to be approved also by meeting of creditors.

Finally, also the court has to approve the plan.

The restructuring proceeding can last up to app. 9 - 12 months.

If the restructuring plan is not supported by the creditors or by the court, the bankruptcy proceeding will follow.

June 2023

@JUDr. Peter Zajac

Attorney and bankruptcy trustee

Jána Stanislava 39

841 05 Bratislava

Slovakia (address for correspondence)

Suché mýto 1, 811 03

Bratislava, Slovakia (office)

or Sládkovičova 1172/34957 04 Bánovce nad Bebravou, Slovakia (office)

Phone: +421 911 830 003

Email: judr.peter.zajac@gmail.com

https://euravocat.com/?page_id=1357

About Slovakia