

Name of the country: Slovakia

Transposition Act = Labour Code, Part Ten

1. Presence of legally based administrative or judicial conflict solving procedures for:

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		Based on Art. 250 para 3 ¹ .
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement			No mention	Art. 13 are not mentioned, thus probably covered by the procedures for conflict solving
D	EWC based on subsidiary requirements		Yes		

2. Litigation on different sets of rights: presence of national provisions

		No	Yes	Which authority (e.g., court) is competent ²
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB			General courts: Regional courts act as courts of first instance in administrative cases, except where otherwise stipulated by law. Labour disputes are heard by specialised courts for industrial disputes ³
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements			Geographical competence: court competent based on the branch office of a defendant legal entity is based, if the dispute relates to that office. ⁴ According to the Code of Civil Adversarial Procedure, the ordinary court of the party against whom the claim is directed
C	Challenging management on the use of confidentiality and secrecy/withholding information)		Yes ⁶	
E	Individual rights of the SNB/EWC members under national EWC legislation			

¹ (3) Members of the special negotiating body, members of the European Works Council and employees' representatives providing for other procedures for informing and consulting employees shall, in the performance of their duties, have the means to collectively represent the interests of employees of an employer in the Member States or a group of employers exercising the right to transnational information and to hear, and to that end they shall be granted the capacity to be parties to legal proceedings.

² Material and geographical competence.

³ Jurisdiction of specialised courts is regulated in Section 22 – 33 CMP (Code of Civil Adversarial Procedure and Code of Civil Non-Adversarial Procedure (Civilný mimosporový poriadok).

⁴ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1

⁶ § 249a of the EWC Act.



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			(the defendant) has jurisdiction to hear the case, unless otherwise provided. ⁵
F	(Others to be filled in)		

3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	Members of the special negotiating body, members of the European Works Council and employees' representatives providing for other procedures for informing and consulting employees + (probably) EWC collectively (see below)
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	In Slovakia the civil court procedure sets Code of Civil Contentious Procedure (private law disputes and other private law matters as labour disputed), Code of Adversarial Procedure (family law matters, inheritance procedure, proceedings in status law matters of natural person, business register matters, proceedings in matters of notary trustees) Code of Administrative Procedure (disputes with state). § 61 CSP Procedural capacity refers to the participant's capacity to perform procedural actions in court on his own or through his chosen representative. In principle, the participants have this capacity to the extent that they have the capacity for legal acts according to substantive law. Full procedural capacity of a natural person arises upon reaching the age of majority, which is acquired upon reaching the age of eighteen, before reaching this age, full procedural capacity arises only upon marriage. Procedurally competent to a limited extent are minors, who are competent only for such legal acts, which by their nature are proportionate to their intellectual and volitional maturity corresponding to their age (Section 9 of the Civil Code). Natural persons whose legal capacity has been limited by the court are also legally competent to a limited extent.
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	Individual capacity to take legal action by Members of the special negotiating body, members of the European Works Council and employees' representatives providing for other procedures for informing and consulting employees ⁷ (Art. 250 ⁸)

⁵ Ibid.

⁷ European Commission 2018.

⁸ (3)

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		However, according to Section 249a in case of confidentiality disputes any party concerned (EWC members and EWC collectively' has the right to "turn to court" to determine whether confidentiality is justified. ⁹
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	Via trade unions (according to European Commission 2018)
5	Who represents the EWC in law?	Members of the special negotiating body, members of the European Works Council and employees' representatives providing for other procedures for informing and consulting employees
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No differentiation/mention in law

4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	No ¹⁰
1.a	Does the law contain any requirements on the internal rules concerning question 1?	
2	How does one file a case in court? (Who, format, steps)	<i>In line with the provisions of Section 125 of the Code of Civil Adversarial Procedure, a submission may only be made in writing, on paper or in electronic form. A submission made in electronic form must be delivered subsequently in paper form within 10 days, otherwise</i>

⁹ Cf. Jagodzinski (2014, unpublished manuscript).

¹⁰ Only indications with regards to decisions by the SNB on negotiating/signing an agreement: "Art. 244: The special negotiating body shall adopt its conclusions by an absolute majority of its members, with the participation of an absolute majority of the members. For the purpose of concluding an agreement according to § 245 par. 1 or § 245a par. 1, the special negotiating body shall decide by a simple majority of all members. The special negotiating body may decide, by at least a two-thirds majority of all members, not to start negotiations on the conclusion of an agreement pursuant to § 245 para. 1 or § 245a par. 1 or that the negotiations already started will end. If a decision is taken pursuant to the third sentence, Sections 246 to 248 shall not apply."



	<p><i>the submission is disregarded. A submission made on paper must be presented in the required number of counterparts.</i></p> <p><i>There are no prescribed forms for the filing of an action (application for the initiation of proceedings).</i></p> <p><i>The general requirements are set in Section 127 of the Code of Civil Adversarial Procedure. A claim must be signed and clearly indicate to which court it is addressed, who is submitting it, to what matter it pertains, and what it seeks. A submission must be submitted with the required number of counterparts and appendices, such that one counterpart would remain at the court and each party would receive one counterpart and appendices, as required. If a party fails to submit the required number of counterparts and appendices, the court will make copies at the party's expense. If an ongoing case is involved, the particulars required include the file number of the case.</i></p> <p><i>In addition to the general requirements, a claim should state the first and last names, and if possible also the date of birth, telephone number, and address of residence of the parties or of their representatives; information about their country of citizenship; a genuine depiction of decisive facts and designation of the proof on which the claimant relies; and make clear what the claimant is seeking. If a party is a legal entity, a claim must state the name or company name, registered office, and identification number, if one has been assigned. If a party is a foreign entity, an excerpt from a register or some other registry in which the foreign entity is registered must be enclosed with the claim. If an individual engaged in business is a party, a claim must state the company name, registered seat, and identification number, if it has been assigned. If the State is a party, the claim must state a designation of the State and of the relevant state authority that will represent the State.</i></p> <p><i>In order to make court proceedings more flexible and to assist parties to the proceedings, the website of the Ministry of Justice of the Slovak Republic (Ministerstvo spravodlivosti Slovenskej republiky) features examples (forms) of selected claims for the initiation of proceedings. It is possible to download an example and fill it in. A form precisely navigates the claimant to the items that must be filled in. A completed form may be sent unsigned or signed with a certified electronic</i></p>
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		<i>signature using a certified certificate. If the claimant sends off a submission without a certified electronic signature, he is obliged to supplement this submission by a submission on paper.</i> ¹¹
3	What is the deadline to start a judicial procedure?	<i>According to the Code of Civil Adversarial Procedure, a right become statute-barred if it was not exercised within the period set by law. The time limits for the submission of a claim differ depending on the case.</i> <i>Statutory limitation periods are set by law. The general limitation period is three years, which starts running from the time when the right could first be exercised.</i> ¹²
4	Are there other relevant deadlines in the judicial procedure?	There are no deadlines in the judicial procedure if you file an action to the court.
5	What is the role of out of court settlements once a case has been filed?	<i><u>In line with the provisions of Section 5 of the Code of Civil Adversarial Procedure,</u> upon the objection of the defendant, applied at the latest in the first court procedural act that belongs to him, the court examines whether the dispute should be discussed and decided in arbitration proceedings.</i> <i><u>In line with the provisions of Section 6 of the Code of Civil Adversarial Procedure,</u> If the court finds that the dispute is to be discussed and decided in arbitration, upon the defendant's objection applied at the latest at the first procedural step, it will stop the proceedings.</i> <i><u>In line with the provisions of Section 7 of the Code of Civil Adversarial Procedure,</u> the court will disregard the defendant's objection and will discuss and decide the dispute if the parties declare that they do not insist on an arbitration agreement, or if the recognition of a foreign arbitration decision was denied in the Slovak Republic. The court must justify the disregard of the objection in the decision ending the proceedings.</i> <i><u>In line with the provisions of Section 8 of the Code of Civil Adversarial Procedure,</u> if the arbitration proceedings started before the court proceedings, the court will suspend the proceedings even without a motion until a decision is made in the arbitration proceedings on jurisdiction or on the substance of the matter</i>
6	How long does a judicial procedure typically take?	The average length of court procedure is 6 months in criminal law cases, 21 months in civil law cases, 24

¹¹ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1

¹² https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1



		months in commercial law cases, 7 months in family law cases ¹³
7	Is an injunction or a summary procedure possible?	According to the <u>Section 328 of the Code of Civil Adversarial Procedure</u> the court will decide on the proposal for the order of an urgent measure no later than 30 days from the delivery of the proposal for the order of the urgent measure, which meets the requirements under section 326.

5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	<i>The filing of a claim is subject to the payment of a court fee. A court fee must be paid by the party submitting the claim (applicant/claimant), unless his obligation to pay court fees has been waived at his request or if he is exempt from their payment by law. The amount of the fee is set by the court schedule of fees, which constitutes an annex to Act No 71/1992, on court fees and a fee for an excerpt from the criminal register (Zákon č. 71/1992 Zb. o súdnych poplatkoch a poplatku za výpis z registra trestov). The fee amount is stated in the schedule of fees, as a percentage from a fee base, or as a fixed sum. A court fee is payable upon the filing of a claim. If a fee has not been paid when payable, with the submission of an application for the initiation of proceedings, the court will ask the payer to pay the fee within a deadline that the court determines, usually ten days from the service of the request; if the fee is not paid in spite of the request within the time limit set, the court will suspend the proceedings. The payer must be informed in the request about the consequences of the non-payment of the fee.¹⁴</i>
2	Is legal representation by a lawyer required in a judicial procedure?	Representation by a lawyer is not mandatory in civil procedures in the Slovak Republic. ¹⁵ <i>According to the <u>Section 90 of the Code of Civil Adversarial Procedure</u> Representation by a lawyer (1) The party must be represented by a lawyer in disputes arising from or related to bankruptcy and restructuring, in disputes from the protection of economic competition, in disputes from unfair competitive practices, in disputes from the threat or</i>

¹³ <https://web.ac-mssr.sk/rocnny-prehľad-dlžky/>

¹⁴ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1

¹⁵ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1



		<p><i>violation of the right to trade secrets, and in disputes related to the protection of intellectual property rights. This does not apply if it is a) on the one hand, a natural person who has a second-level university legal education, b) on the one hand, the legal entity and its employee or member acting on its behalf have a second degree university legal education.</i></p> <p><i>(2) If the party does not choose a lawyer even within a reasonable period determined by the court, its actions are not taken into account; the court will instruct the party about this.</i></p> <p><u>Section 91</u> <i>Representation is not allowed in disputes regarding the protection of personality according to the Civil Code, in disputes regarding protection according to the regulations on mass communication media, in disputes regarding legal relations arising from a promissory note, check or other security, and in disputes between entrepreneurs in the performance of their business activities; this does not apply if the representative is a person who has a second degree university legal education.</i></p>
3	Who pays the costs for:	According to the European Commission (2018) lack of possibility to cover costs, BUT there exists the general clause on coverage of reasonable costs for the activity of an EWC or SNB (Section 243a), just as in other countries
	- Legal expert	
	- Court fees	<p><i>The parties to the proceedings pay the costs of the proceedings that they personally incur and those of their representatives. Shared costs are paid by the parties in proportion to their involvement in the case and the proceedings.</i></p> <p><i>Where parties are assigned a lawyer to represent them, the State covers the lawyer's expenses and representation fee.¹⁶</i></p> <p>Possibility to consider Legal Aid: Under the Legal Aid Act, legal aid may be granted in civil law, labour law and family law cases, debt discharge proceedings under special legislation, in proceedings before an administrative court and, in such cases, also in proceedings before the Constitutional Court of the Slovak Republic ('in-country disputes'). In cross-border disputes, legal aid</p>

¹⁶ Ibid.

		<p>may be granted under the Legal Aid Act in among others in proceedings before an administrative court and proceedings before the Constitutional Court of the Slovak Republic.</p> <p>‘Eligible persons’ are natural persons granted entitlement to legal aid by a final decision of the Legal Aid Centre upon proving that they meet the conditions laid down in Section 6 of the Legal Aid Act. Where applicants are at risk of missing a deadline, they may apply to the Legal Aid Centre for provisional legal aid at the same time as submitting their application. The Legal Aid Centre then takes a decision without undue delay on granting provisional legal aid, before taking its decision on granting legal aid entitlement.</p> <p>Applications are available on the Legal Aid Centre’s website. The Legal Aid Centre’s decision either grants full entitlement to legal aid or it refuses entitlement. legal aid is also granted for appeal proceedings and enforcement proceedings.¹⁷</p>
	- Other costs (travel/interpretation)	
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	No
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	

6. Sanctions

		Brief explanation
	How is a breach of law classified?	Administrative offence ¹⁸
1	What are the sanctions for breaches of EWC laws?	Fine, up to 100 000 ¹⁹ (the Commission claims up to 100 000 EUR, Eurofund and Jagodziński 100 000 (2014) SKK)
2	Can the court rule to stop or reverse the	

¹⁷ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1

¹⁸ According to European Commission 2018.

¹⁹ European Commission 2018. Also Jagodziński (2014, unpublished manuscript) Based on Eurofound (2009).



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	companies' decision-making?	
3	Whom should fines be paid to?	<i>In line with the provisions of Section 102 of the Code of Civil Adversarial Procedure</i> (1) The court can impose a procedural fine on the person who makes the procedure more difficult, in particular by a) does not fulfill the obligation imposed by the court and does not justify his inaction in the proceedings in time and with serious circumstances, b) does not appear in court, although he was properly and on time summoned to it and did not justify his absence in time and with serious circumstances, c) disobeys a court order, d) disrupts the order or dignified course of the hearing or e) makes a grossly offensive submission. (2) The amount of the administrative fine is determined by the court, taking into account the nature of the breached obligation; fines of up to 500 euros can be imposed. (3) The court can impose a fine of up to 2,000 euros for repeated violations of the obligation.
4	Can a member of management be held personally liable (personal vs. corporate liability)	The member of management can be held liable personally if the commits a crime. In addition to personal it is the company that can be held liable for its criminal actions according to the Act no. 91/2016 Coll. act on Criminal Liability of Legal Entities and Amendments to Certain Acts.
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	

7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	<i>Under certain conditions set out by the Act on Arbitration (zákon o rozhodcovskom konaní), as amended.</i> <i>If the type of dispute subject to judicial proceedings is one that the Act on Arbitration does not exclude from its scope, parties to the proceedings can agree, either in or out of court, that they will proceed with arbitration. This agreement must contain an arbitration agreement. An agreement of that sort delivered to a court has the effect of a withdrawal of the claim and of the consent of the defendant to that withdrawal, in line with the Code of Civil</i>



	<p><i>Adversarial Procedure (Civilný sporový poriadok, CCAP).²⁰</i></p> <p>Mediation <i>Mediation in Slovakia is an informal, voluntary and confidential procedure for resolving conflicts out of court by using a mediator. The aim of mediation is to reach an agreement that is acceptable to both parties.</i></p> <p><i>The agreement resulting from the mediation procedure must be set down in writing. It applies primarily to the parties involved in the agreement and is binding on them. On the basis of the agreement, the entitled party may apply for judicial enforcement of the decision or for distraint, providing that the agreement is:</i></p> <p><i>drawn up in the form of a notarial act; endorsed as conciliation in court by an arbitral body. If no mediation agreement is reached, the matter can be pursued in court.</i></p> <p><i>Mediation is a paid service. The fee for the mediator is set on an individual basis and is usually based on an hourly rate or a flat fee. Mediation is a business activity and there are no preset costs.²¹</i></p> <p>The website of the Slovak Ministry of Justice has a section dedicated to mediation, which is available only in Slovak.</p>
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8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	<i>According to <u>Section 102 of the Code of Civil Adversarial Procedure</u>, An employee can be represented by a trade union in an individual labour law dispute. The provisions of the first part of the fifth chapter of the fifth part of this law are not affected by this.</i>
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	The Centre for Legal Aid is a state budgetary organization established by the Ministry of Justice of the Slovak Republic pursuant to Act no. 327/2005 Coll. on Granting of Legal Aid to Persons in Material Hardship. The Centre for Legal Aid was established on 1 January 2006. The purpose of the Centre's work is to provide comprehensive legal assistance in defined areas to people who cannot use legal services due to lack of money and property. The Centre thus seeks to provide people in hardship with effective legal protection and access to exercise their rights.

²⁰ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?SLOVAKIA&member=1

²¹ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?SLOVAKIA&member=1





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