National Report Slovakia

Questionnaire No 1: Collection of Statistical Data

The main focus of the statistical evaluation will be on the areas *lis pendens*, jurisdiction and recognition of judgments.\(^1\) Hereby the following inquiries will be carried out:

1. Evaluation of the number of decisions concerning Regulation 44/01/EC proportional to decisions in civil and commercial matters all in all\(^2\)

| Regulation 44/2001/EC was applied in 19 judicial decisions since Slovakia come into EU Member state in May 2004. The first judicial decision made by slovak national courts was issue on 7.11.2005 (County court Trenčíne, 5Co/307/2005) in civil proceedings concerning the compensation of general damages. There were published completely 4 decisions concerning Regulation 44/2001/EC in 2005 (3 in civil proceedings and 1 in commercial matter) and 14 in 2006 (12 in civil and 2 in commercial matters). |

2. Evaluation of the approximate number of judgments where the courts and tribunals of the Member States concerned retained jurisdiction on the basis of the rules of Regulation 44/2001/EC in 2003/2004 and evaluation of the provisions mostly relied on for that purpose\(^3\)

| There are not judicial decisions concerning retained jurisdiction according the rules of Regulation 44/2001/EC till yet. |

3. Evaluation of the approximate number of applications for a declaration of enforceability on the basis of Regulation 44/2001/EC in 2003/2004

| There are any applications for declaration of enforceability till yet. |


| There are any declarations of enforceability made by slovak national courts concerning Regulation 44/2001/EC. |

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\(^1\) In general the evaluation shall be based on official statistics. However, if no official data bases exist, an approximate number of decisions should be named, that can be asked for at courts.

\(^2\) Due to the short period of application it can be expected that there are only very few decisions concerning the recognition of judgments. Therefore the evaluation shall be expanded, regarding recognition, on decisions concerning the Judgments related to the Convention of 1968 in 2003/2004.

\(^3\) All legal proceedings where the defendant is domiciled in a Member State as well as actions according to Article 22 and 23 Regulation 44/01/EC. It is aimed to evaluate the data of the year 2004 – insofar this data is statistically recorded in the Member States. It has to be admitted that the different methods of organisation and documentation within the EU Member States constitute an element of uncertainty. A separate evaluation of court records is – due to the given time and budget frame –, not possible. The evaluation of data will be carried out at the judicial authorities of the Member States by means of the European Judicial Network (EJN). Supplementary, national reporters should selectively address courts and public authorities, which are according to the reporters’ knowledge concerned with the application of the Regulation. If all proceedings concerning declarations of enforceability were concentrated in one senate and had special reference numbers it would be quite easy to determine the number of proceedings by means of the last reference number which has been passed out in the respective year.
5. Evaluation of the approximate number of declarations of enforceability which have been refused already in the first instance in 2003/2004, including the principal grounds for refusal; further evaluation of the number or proportion of cases, where a subsequent improvement of the application has been asked for

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6. Evaluation of the approximate number of revocations of decisions containing a declaration of enforceability after an appeal in 2003/2004, including the principal grounds for revocation

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7. Evaluation of the average amount of time required/accrued for obtaining a decision containing a declaration of enforceability

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8. Compilation of a list of the provisions of Regulation 44/2001/EC that are most frequently applied by the courts and tribunals in the Member States concerned

The judicial decisions issued by slovak national courts applied mostly the jurisdiction rules – article 2, 4, 5, 12, 18, 19, 20, 23, 25, 26.
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Questionnaire No 2: Collection of Empirical Data

1. Survey

The second questionnaire covers empirical problems – especially the interfaces between Regulation 44/01/EC and the national laws of procedure. This questionnaire is distributed selectively among groups, who are concerned with the application of Regulation 44/01/EC due to their profession.

2. Questions

2.1 Are there conditions of recognition and enforcement of judgments, authentic instruments and court settlements which are beyond those permitted under Regulation 44/01/EC?

Yes, there are some specific rules in Slovak legal order containing the special legal statutes for recognition and enforcement of judgements, authentic instruments and court settlements adapted in § 63 - § 68 h) of Act No. 97/1963 Zb. for international private and case law. This conditions are similar to rules of Regulation 44/2001/EC and there are a very important reflection of a bid for aproximation of Slovak legal order before entry of Slovak republic to EU (the above mentioned rules of Act No. 97/1963 were an outcome of amended law by Act No. 589/2003 which came to effect on March 1st 2004.

2.2 Are there local focal points, i. e. do cross border litigations accumulate in border regions?

In consideration of the fact that Slovak republic don’t belong to state with extensive area, there are any accumulation of cross border litigations in border regions. There are different amount of judicial decisions applying the rules of Regulation 44/2001/EC af Slovak national courts in regions of Slovak republic. For example the most decisions were currently issued by District Court Prievidza (totaly 5 decisions) and paradoxically district Prievidza don’t belong to border regions of Slovakia.

2.3 From which State of origin do titles that shall be recognized or executed in your State come from?

We haven’t got any official facts about process of recognition and enforcement of judicial decisions, authentic instruments and judicial settlements made by Slovak courts but we assume that the relevant titles for recognition and enforcement in Slovakia do mostly come from neighbouring states, and the the majority of them from Czech republic.

2.4 Can the handling of the standard form concerning Article 54 be regarded as satisfactory or do similar problems arise as regarding the standard forms concerning Regulation 1348/2000/EC? (See the respective parts of the Mainstrat-study (p. 93–98), which are attached to the questionnaire. Explanation: group 1 = members of state

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1 These questions should be put to lawyers as well as judges. However, regarding some questions mainly lawyers are addressed.
administration, group 2 = judges and attorneys, group 3 = hussiers de justice and other persons providing the service of documents.).

2.5 Do courts make use of the possibility provided for in Article 55 to dispense with the certificate’s production?

There is any knowing experience of slovak national courts with Article 55.

2.6 Do any language problems arise regarding recognition and enforcement – especially regarding the handling of the standard form concerning Article 54?

There is any knowing experience of slovak national courts. Slovak issue of Regulation 44/2001/EC contain a official translated version of certificat mentioned in article 54.

2.7 Is the production of translations required (Article 55 (2) Regulation 44/01/EC)?

The current situation implicit experince of slovak national courts and prove that it’s still necessary to deal with official translation by proceeding the recognition or enforcement of foreign judicial decisions, authentic instruments or court settlements. Official translated documents are prepared by professionals with special permission to create an official translations of relevant documentation. Department of Justice of Slovak republic list all translators and interpreters and this informations are published on its web site. The status of legal translators, interpreters and experts is adapted in Act No. 382/2004 Z.z. about experts, interpreters and translators.

2.7.1 If yes, will the translation of the operative provisions suffice or is it necessary to translate the whole judgment including the grounds for the decision?

With regard to spektrum of translations its necessary to take into account grounds, when the judgment can not be recognised. National courts have to prove all facts relevant for estimation of judgments as recognisable or not, and that’s determinate the translation quantity.

2.7.2 Do the costs for translations lead to less efficiency?

We cannot estimate the interaction between costs and efficiency by recognition of foreign judicial decisions, hence slovak national courts haven’t any experience with this process.

2.8 Which costs result from the recognition of judgments, authentic instruments and court settlements?

Generally, according to Act No. 71/1992 Zb. about judicial charges and police certificate charge, are the costs for request of recognition of foreign judgements totaly 2000,-Sk (slovak crowns).

In particular:

2.8.1 How is Article 52 implemented?

Slovak national courts haven’t got any experience with apllying of article 52, till yet.

2.8.2 How are solicitor’s charges calculated?

Solicitor and client have a possibility, according to Edict No. 655/2004 Z.z. about solicitors charges, to negotiate the amount of real solicitors charges in
form of legal agency agreement. This amount increase according to solicitors legal services, for example if it is necessary to use the knowledges of foreign language or foreign legal order.

2.8.3 Are these costs reimbursable?

The solicitors charges are reimbursable as titles to payment resulted from legal agency agreement.

In particular:

2.8.3.1 Who calculates and verifies the amount of the reimbursable costs, which have been asserted?

The solicitors charge that should be reimburse have to be negotiate in form of special agreement between solicitor and client.

2.8.3.2 Is it possible to execute the reimbursable costs without bureaucratic formalities?

In the case that the client can’t realized the payment of solicitors charge, as a legal title can the named amount be executed on the basis of taking a claim against client for payment of negotiate charge. This process is take by national district courts in civil proceeding.

2.8.3.3 Are there any delays in time due to the fact that the costs have to be calculated or due to the fact that the calculation has to be verified?

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2.9 Does the requirement to serve the party against whom enforcement is sought with the declaration of enforceability, which is provided for in Article 42 – or the practice of judicial authorities regarding the dispatch of communications in general – impair the efficiency of enforcement – in particular its surprise effect? Does this virtually obstruct the possibilities of Article 47?²

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2.10 Is there any experience with the granting of legal aid according to Article 50 of the Regulation?

Currently, there is no practical experience with applying of article 50, but slovak legal order adapted a guarantee by granting of legal aid.

2.11 Is there any experience with the declaration of enforceability of authentic instruments (Article 57), court settlements (Article 58) and appealable judgments (Article 37)? (See also Questionnaire No. 3, part 4.).

There is no experience of slovak national courts.

² Please describe in detail the chronology of all steps that are carried out by the creditor and the court (including its administrative staff). For instance, in Germany the same court clerk is competent to serve the debtor and to notify the creditor. As a consequence of that, the creditor is not informed before the debtor, so that the surprise effect of the first enforcement measure fails. If in your country the court is competent for service: Do similar problems occur? In case your State follows the system according to which the debtor is served by order of the creditor: Does this guarantee the surprise effect?
2.12 Do problems arise regarding the references to national procedural laws that are included in Annex I to IV of the Regulation?

We couldn’t estimate this fact out of consideration the Slovak courts haven’t so much experience with this procedural rules of Regulation.

2.13 Do problems arise regarding the application of the standard forms (certificates) that are included in Annex V and VI of the Regulation?

There are no problems with using the special forms included in Annex of Regulation, inasmuch as the Slovak national courts have an official translation of this documents.

2.14 Do judges have easy access to a version of the printed form concerning Article 54 of the Regulation (Annex V) in their own language, so that a translation of the completed form is dispensable?

Yes, they have. Translated version of all form concerning Article 54 are available on website of Department of Justice of Slovak Republic.

2.15 Are there any possibilities to improve the implementation of the Regulation within the EU? How could guidelines for an improved coordination and cooperation (at a judicial and administrative level) look like?

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2.16 How much time does it take usually until the first enforcement measure (at least seizure of assets) is carried out – i.e. not only until the judgment – after an application for a declaration of enforceability has been submitted? How much time does it take usually after a judgment has been given in a Member State to collect all documents which are necessary to pursue the application for a declaration of enforceability in another Member State?

Slovak national courts haven’t experience with these issues till yet.

2.17 Is there any experience with actions raising a substantive objection to the judgment claim?³

There is no experience with similar claims.

³ Example: The debtor claims that he has performed in the meantime or has set off his claim against the creditor’s claim or has made a compromise including the arrangement to pay by instalments. This is possible according to an explicit provision in the German implementing statute (§ 12). Does a similar rule exist in your legal system? If yes, did this lead to delays in granting declarations of enforceability?
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Questionnaire No. 3: Legal Problem Analysis

1. General Themes

1.1 Are there any problems in the judicial practice with the autonomous interpretation of “civil and commercial matters” (Article 1 (1)) practised by the European Court of Justice (ECJ)?

Slovak legal tradition include two main categories of ius civile – civil law and commercial law. The systemathic acces is currently designed by attention of unification of this specific fields. The recodification of civil law started in Slovakia in 1993 and there are many unclear issues till yet.

The Slovak legal order contain the main explanation of civil law cathegories in two codes – Act No. 64/1964 Zb. Civil Code as a lew generalis; and Act No. 513/1991 Zb. Commercial Code as lex specialis.

1.2 Do public authorities use the Regulation to assert claims against private persons?

There are any knowing case.

1.3 How is the delineation of the scope of application of the Regulation and other instruments concerning the judicial cooperation in civil matters?

There isn’t any proven realities in slovak judicial practice.

In particular:

1.3.1 The delineation to Regulation 2201/03/EC (concerning Article 1 (2) lit. a) Regulation 44/01/EC)? Are there any problems with the assertion of claims concerning maintenance/living costs?

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1.3.2 The delineation to Regulation 1348/2000/EC (concerning Article 1 (2) lit. b)), particularly: How does the judicial practice treat the delineation of collective and single actions? Are there any problems with the delineation of actions concerning cases of insolvency and those that do not?  

In some legal systems the avoidance in insolvency proceedings has to be asserted before another court than the court of origin. Before Regulation 44/01/EC and Regulation 1346/2000/EC came into force, the proceeding was treated as one ruled by insolvency law, whose jurisdiction was ascertained by national law. Today it is said that the rules of Regulation 44/01/EC and Regulation 1346/2000/EC concerning the jurisdiction interlock. On the other hand Regulation 1346/2000/EC gives jurisdiction to a court only in the case of opening the insolvency proceedings, not in other cases concerning the law of insolvency. Does this lead to the conclusion that the avoidance of insolvency proceedings is ruled by Regulation 44/01/EC? The same problem arises with actions concerning the liability of a liquidator. Do such problems arise in your country?
1.4 How do the guarantees for the rights of defence provided by the Regulation work concerning jurisdiction on the one hand and recognition and enforcement on the other hand?

1.5 Are the rules of Articles 32–58 of Regulation 44/01/EC compatible with national procedural rules? Do special rules exist (for instance within the scope of Art. 59) or do the general rules have to be used?

There is no incompatibility between Regulation and Slovak national law granted till yet.

2. Provisions of Regulation 44/01/EC dealing with Jurisdiction

2.1 General Issues

2.1.1 Does the Regulation guarantee, according to its overall objectives, predictability of judicial decisions and legal certainty?

The scope of application of Regulation 44/2001/EC is determined to regulate the legal matters with strange relation to member states of EU. The Slovak republic is since 2004 one of the member states and Slovak legal order have to made some important interferences with consideration to ius commune. The Regulation is a legal regulator with increases space of applicability mostly in reference to relations with other member states.

2.1.2 Do the provisions on jurisdiction deal satisfactorily with the relevant issues, in particular: Do the courts of the Member States comply with the obligation as laid down by the ECJ that exclusively deal with the issues identified by Article 5 constitute a ground of jurisdiction?

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2.1.3 Is the catalogue of fact-specific grounds of jurisdiction sufficient?

The catalogue of specific grounds of jurisdiction laid down in regulation is sufficient for the purpose of Slovak judicial practise.

2.1.4 Does Article 4 (2) cause a discrimination in fact of third State parties?

There are any relevant cases with proven discrimination of third states.

2.1.5 How are Articles 25 and 26 applied in practice? In particular: How does the examination “ex officio” work? Does such examination include grounds of jurisdiction not mentioned in Article 25? Do the courts examine ex officio if there is a valid choice-of-forum clause derogating the jurisdiction seized with the matter by reviewing the entire document of the agreement or do they demand a declaration of plaintiff that there is no derogation?

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2.1.6 Is the examination of the issue of jurisdiction expensive and time-consuming? Are the same fees for the court and the attorneys to be paid as under the main

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2 Example: In Germany there is an obligation for the parties of being represented by a solicitor when taking action at the Landgericht. An exception is made for the order of enforcement of a foreign judgment by a rule of the national implementation law (§ 4 (2)).
proceedings? How long does it usually take to obtain a final decision on jurisdiction? Are there any complaints that courts do not decide the issue of jurisdiction separately, but only in connection with the main proceedings? In reverse, are there complaints that a separate decision on jurisdiction results in an unbearable delay of the decision in the main proceedings?

There are any knowing cases to prove this assumptions.

2.2 Questions regarding the various grounds of jurisdiction

2.2.1 How is the reference in Articles 2 and 59 applied? How is the term “domicile” defined? Are there any cases where the courts held that the Defendant had several domiciles?

2.2.2 Does Article 60 with its alternative connecting factors appear feasible?

2.2.3 How does Article 5 No. 1 work? In particular: Article 5 No. 1 lit. b) 1st indent leaves open the place of fulfilment if goods are handed over to a carrier under CIF or FOB. Is the place of delivery the place where the goods are handed over to the carrier or is the place of delivery to the addressee at the latter’s place? In that respect, are there any difficulties known in court practice or contract drafting?

2.2.4 Do courts have difficulties to determine the place where a service was provided or should have been provided?

2.2.5 How is the line drawn between Article 5 No. 1 and Article 5 No. 3?

2.2.6 What falls within the scope of the term „matters relating to tort“ under Article 5 No. 3?

2.2.7 Taking into consideration the case law of the ECJ, how is the jurisdiction determined under Article 5 No. 3, in particular in the case of distance and multistate offences? Is the ratio of the decision of the ECJ in “Shevill” workable?

2.2.8 Functioning and practical relevance of Article 6 No. 1 and No. 2 Regulation 44/01/EC: Are there any doubts as to the compatibility of Article 6 No. 1 Regulation 44/01/EC with Article 6 European Convention on Human Rights?

2.2.9 Determination of defendant’s quality, of a consumer in the sense of Article 15 (1) (in light of the case law of the ECJ).
2.2.10 How is the concept of an activity “directed to one or several Member States” under Article 15 (1) lit. c) applied in practice? How is the provision construed in case of internet business?

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2.2.11 Taking into consideration the case law of the ECJ, how is the term of „establishment“ in the sense of Article 15 (2) interpreted?

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2.2.12 How do the provisions on individual contracts of employment (Articles 18–21) apply and how do they interrelate with the respective choice of law rules (in particular Article 6 Rome Convention)?

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2.2.13 Are any of the exclusive grounds of jurisdiction in the catalogue of Article 22 too broad or too narrow?

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2.2.14 Determination of the national practice in respect to the exclusive grounds of jurisdiction under Article 22 No. 2, in particular: In which types of cases is the provision most frequently applied in practice?

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2.2.15 To what extent does the provision comply with the ECJ’s decisions on the freedom of establishment (Centros/Überseering)?

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2.2.16 How do you draw the line between Article 5 No. 3 and Article 22 No. 4 in respect to litigation on patents? How do the national courts deal in infringement proceedings with the argument of patent invalidity?

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2.2.17 Questions relating to the applicability of Article 23

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In particular:

2.2.17.1 Implementation in practice of the decisions of the ECJ by the courts of the Member States?

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2.2.17.2 Except for the issue of formal requirements, are conclusion and validity of choice-of-forum agreements determined according to the lex causae or the lex fori?

According the § 9 and 37e) of International private law Act (no. 97/1963 Zb.) choice of forum agreement have to be gauge by the lex caussae, but it is necessary to keep the written form of agreement.
2.2.17.3 Are choice-of-forum clauses in standard form contracts subjected to judicial control?

There is any knowing case.

2.2.17.4 National practice in determining „usages“ of international trade or commerce in the sense of Article 23 (1) lit. c)?

What does a party referring to usages of international trade have to proof before the court?

2.2.18 Effect and functioning of Article 31

There is any experience with article 31, but slovak judicial practice know the principle of provisional measures. According § 74 of the Act No. 99/1963 Zb. Civil Legal Order, has an applicable court a posibility to directed the provisional measures if it is necessary for the certainty of judgements enforcement or for trial participants.

In particular:

2.2.18.1 Term of „provisional measures“. According to the practice of the courts of your Member State, do measures resulting in the provisional fulfilment of the claim fall within the ambit of „provisional measures“?

2.2.18.2 Territorial connection with the State where the measure was rendered

2.2.18.3 Problems in applying autonomous provisions on jurisdiction in cross-border transactions

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3 The problematic point lies with written confirmations of orders that are issued by the provider of the non-cash contribution with reference to general conditions that encompass a clause-stipulating jurisdiction. According to the opinion of the ECJ ("Segoura") this was not possible without written confirmation by the client. This was the reason for the implementation of today’s Article 23 (1) c) in the adapting negotiations with Denmark, Ireland and the United Kingdom. According to the leading decision of the ECJ ("Mainschiffahrtsgenossenschaft"), the meaning of "commercial customs" used by Article 23 (1) c) is a matter of fact that has to be finally decided upon by national courts. Did the courts of your State express their opinion regarding this point – in particular with regard to confirmations of orders to which general conditions are attached? Are there any complaints from representatives of the economy who claim that there are no workable and reliable possibilities anymore to achieve choice of forum agreement for certain kinds of business?

4 According to the rulings of the ECJ ("van Uden", "Mietz") a provisional measure according to Article 31 can only be assumed when the repayment of the granted amount is guaranteed to the claimant for the case of the claimant being defeated in the proceedings of the main action. Are there any opinions of the judicial practice or legal writers concerning the meaning of "guaranteed"? Does it only mean the existence of a substantive claim for a payment or does it mean the obligation of the claimant to grant sufficient securities?

5 In the judgments quoted above, the ECJ has set up the requirement that a provisional measure issued by a court that has no jurisdiction on the proceedings of the main action must have a territorial connection to the State of the forum. The question is, whether this criterion is also capable in cases, where the provisional measure shall impose or interdict an action to the opponent, e. g. not to distribute goods, which have been produced by infringements of the legal protection of industrial property. Are there any experiences concerning such cases in your State?
2.2.18.4 Relation between interim protective measures and main proceedings

2.2.18.5 Enforcement of provisional measures under national law

According to Act No. 97/1963 Zb. of international private law and international case law, paragraph 63, the recognition and enforcement rules are dedicated to all foreign judicial decisions - so there is any difference between provisional measure and judicial decision. The same grounds of unrecognition or unenforcement have to be proven by the both types of judicial acts.

3. **Lis Pendens** and Related Actions

3.1 How does Article 27 work concerning the principle of *lis pendens*, particularly in the light of the case law of the ECJ and the courts of the Member States?

3.2 Does the principle of *lis pendens* ("first seized") cause an incentive to "race to the court room" in the judicial practice?

There is any experience made by slovak judicial practise.

3.3 Are there any frictions between Civil Law- and Common Law-systems caused by the different procedural cultures?

3.4 How does Article 28 work with actions that have close connections to each other? Would a positive differentiation by hard criteria be useful?

Slovak judicial practice doesn´t make some experience with application of Regulation rules relating to differentiation of charakter of acting matters. There are just some examples made by the slovak courts in the field of claims without foreign element. Slovak legal Act. No. 99/1963 Zb. Civil Legal Order, specify civil matters and their connection to each other, for example - the matters of divorce are connected with intend for parental rights on the time after divorce. Generally, there are some helpfull criteria for determination of the real connection between acting matters. According §112 of the above mentioned legal act, the matters can be puting through by the applicable court, if there are economicaly reasons and the connection to the same person and similarity of substantial objective of the matters, can by proven.

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The provisional measures provided by the national legal systems are very different. The rules regarding the enforcement in the Member States are not applicable regarding provisional measures unknown to the national law. The problem has become a practical one in connection with the freezing order (Mareva Injunction) of the English law. This instrument prohibits the opponent from disposing over his assets. Infringements cause penalties because of contempt of court – even for third persons (e. g. banks running the account) that take part in these infringements. British courts add a clause to the world wide freezing order that persons who are not subject to the court’s jurisdiction are only covered, when this special order is declared enforceable abroad. What are the results of such a declaration of enforceability? Is there a possibility of enforcement in your State, when an English freezing order has been declared enforceable? To the national reporter of the UK: Do English courts demand to impose "contempt of court"-penalties on foreign banks because of account dispositions in the State of question after the declaration of enforcement of the freezing order?
3.5 Within the Articles 27 to 30, how is it determined whether pending actions concern the same claim between the parties, particularly taking into consideration the case law of the ECJ?

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3.6 Do practical problems arise regarding the application of Articles 27 to 30 with actions of several parties?

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3.7 Is there a loss of efficiency because of the tactics of taking negative actions for a declaratory judgment at courts without jurisdiction (“torpedos”)?

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3.8 Or could the client with an action taken quickly for a declaratory judgment turn away an oppressive action of a claimant in a foreign country (for example in a country with extremely high costs)?

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3.9 In the case of a European patent: Can a consistent action of infringement be asserted in your country when the objection is raised that several elements of this European patent are infringed by a consistent strategy of marketing?

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4. The Recognition and Enforcement of Judgments, Authentic Instruments and Court Settlements According to Regulation 44/01/EC

4.1 Questions regarding the free movement of judgments

4.1.1 How does the procedure regarding the recognition and enforcement of judgments, authentic instruments and court settlements work?

Slovak legal status request for recognition and enforcement procedure an official petition. The slovak courts cann’t work ex offio in the point of question. The applicable court is court appointed according the rules of slovak international private law (see Act No. 97/1963 Zb. about international private law and case law). The applicable court examine the grounds for declaration the foreign decisions or other judicial acts as unrecognisable and unenforcable. This grounds are including in mentioned legal act. This procedure allow the examining of substantial objection not, so the judges can prove only this point of questions which are incorporate in the slovak international private law act or in articles 34 and 35 of Regulation 44/2001/EC. This procedure is realized generally if it is necessary to gauge the foreign judicial acts.

4.1.2 Are the establishment of additional standard forms, e.g. for applications for a declaration of enforceability, desirable?

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4.2 Additional issues
4.1.3 Are the reasons for objection that are laid down in Articles 34 and 35 appropriate? Is there a possibility to decrease the number of reasons for objection or is it – on the contrary – necessary to increase this number?

The list of ground describing in articles 34 and 35 is appropriate and it isn’t necessary to increase this number, inasmuch as the public policy is one of them.

4.1.4 What is the criteria regarding the requirement of clarity and definiteness of foreign titles have to comply with according to Article 38?

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4.1.5 How often is the reservation of public policy (Article 34 No. 1) referred to and with which result?

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4.1.6 How does Article 49 work with regard to the enforcement of foreign decisions, which are aimed at the payment of an administrative fine to the creditor and what is the practical significance of this provision?

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4.1.7 Does the inadmissibility of “anti-suit injunctions” which has been stated by the ECJ have any consequences for the efficiency of legal protection?

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4.1.8 How does the practical implementation of appeals work in your State (costs, duration, mandatory representation by lawyers)?

According the Act No. 99/1963 Zb. Civil Legal Order, the slovak appellate proceedings are realized by special appellate courts, definite in generally as “second-degree courts”. Considering the differences between civil and commercial matters are appeals requested by districts or county courts (with appeals in commercial matters acts mostly county court). The appellate court start to act on the bases of special obligor´s petition – for the legal appeal it is necessary to claim it on the applicable appeal court in 15 days, before the judgment became an unappealable decision.

4.1.9 How is the relation between national remedies of enforcement law and the free movement of judgments (Art. 22 Nr. 5, Art.32)? In particular: Which remedy does the debtor assert if he argues that there have been changes regarding the claim after the judgment has been delivered or if he argues that the claim does not exist at all?

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4.2 Provisional Measures according to Article 47

4.2.1 How does Article 47 work?

There are any knowing cases of applying article 47 in Slovakia.

4.2.1.1 Art. 47 (1) clarifies that the creditor has the option to apply for provisional measures instead for a declaration of enforceability according to the law of the enforcement State. Does any relevant experience exist? Do enforcement agencies examine – within the
4.2.1.2 If yes, on the basis of which factual criteria?

4.2.2 Art. 47 (2) is aimed to ensure the surprise effect of legal enforcement. The creditor is entitled to provisional measures before the debtor is served with the declaration of enforceability. Does any relevant experience exist?

4.2.3 Does the judge who is competent for declarations of enforceability have competence for provisional measures (Article 47) as well?

4.3 Cross-border Enforcement of Court Settlements and Notarial Deeds

4.3.1 How do Articles 57 and 58 work?

There are any knowing case in Slovakia.

In particular:

4.3.1.1 Is there any experience regarding the interpretation of the term “authentic instrument” in Article 57?

4.3.1.2 Is there any experience regarding the interpretation of the term “settlement approved by a court” in Article 58? Did the wrong English version (“court approved” instead of “conclus devant le juge”) lead to difficulties?

4.3.1.3 Are the standardised forms sufficient?

4.3.1.4 To which extent are Articles 34 and 35 applied?

4.3.2 Please describe the practical significance of Article 57 and Article 58

4.3.2.1 Did the situation occur that declarations of enforceability against the debtor have been applied for in several States at the same time?
4.3.2.2 For creditors’ lawyers: Was it possible to achieve a higher efficiency of legal protection by means of this?

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4.3.2.3 For debtors’ lawyers: Did oppressive situations arise out of this? Did this lead in particular to the result that excessive enforcement measures have been carried out?

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4.3.3 Specific problems regarding court settlements, enforceable instruments and provisionally enforceable judgments

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4.3.3.1 Are there any known cases, where a court of a higher instance has reversed a foreign judgment after enforcement measures had been carried out? How can enforcement measures be set-aside in such a situation?

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4.3.3.2 Are there – from the debtor’s point of view – any problems with documents that are not valued?7

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4.3.3.3 Have there been any practical difficulties with regard to judgments which have only been declared provisionally enforceable?

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5. Proposals for improvements

Do you see, based on your experience with Regulation 44/01/EC, any necessity to improve the regulation, in particular regarding the rules on jurisdiction, *lis pendens*, provisional measures and recognition and enforcement? If yes, please make proposals.

In consideration of applying the rules of Regulation 44/2001/EC in Slovakia in past two years it’s effective to leave this rules in this status quo. The slovak national courts and judges try to get the most effect and legal certainty by its application.

7 In some States, as for instance in Germany, notarial deeds are only enforceable if the debtor has submitted to enforcement explicitly. The submission is abstract. The debtor can submit to enforcement for a sum that he does not owe at all or does not owe to the stated amount. If the creditor pursues the enforcement nevertheless, the debtor is entitled to claim restitution of the unjust enrichment – if necessary in a separate legal proceeding. Therefore, there is a risk that the enforcement is carried out first for a much higher amount than the debtor has to pay (especially regarding interests). In Germany there exists – regarding cases without a foreign element – a very differentiated system of provisions of security and provisional stay of execution or limitations in its contents (only seizure of assets), which ensures a balance between the interests of both sides – the creditor as well as the debtor. Does the problem of titles that are not valued exist also in other States? Are cases known, where an excessive enforcement has taken place and the debtor was unable to obtain judicial remedy in time?