COMPARATIVE STUDY OF “RESIDUAL JURISDICTION”
IN CIVIL AND COMMERCIAL DISPUTES IN THE EU
NATIONAL REPORT FOR:

SLOVAKIA

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**National Report on Residual Jurisdiction**

**Slovakia**

**(A) General Structure of National Jurisdictional Rules for Cross-Border Disputes**

1. **Main legal Sources**


   In addition, 18 bilateral conventions concluded between the Slovak Republic (or the former Czechoslovak Republic with subsequent succession of the Slovak Republic into such conventions) with individual states regulate also jurisdiction in specific civil and commercial matters between the Slovak Republic and the particular state. The Slovak Republic is a party to the Conventions of the United Nations, the Council of Europe and the Hague Conference on Private International Law.

   As a general rule for determining a jurisdiction in a particular case pursuant to the International Private Law Act, the jurisdiction of the Slovak courts is given, if the defendant has his/its seat or residence in the territory of the Slovak Republic, or in matters concerning property, when the property of the defendant is located in the Slovak Republic. For further details of jurisdictional rules, please see Section 3 below. The English translation of the relevant provisions of the International Private Law Act is attached.

   b) In the Slovak legal system, there are no binding rules based on case law. The courts’ decisions are published in the Collection of Decisions and Standpoints of the Courts of the Slovak Republic; however, they are used only as an interpretative tool and the courts are actually influenced by previous judicial decisions. No landmark cases were identified by us as to the interpretation of jurisdictional rules for cross-border disputes in civil and commercial matters.

2. **Specific Rules (or Not) for Transnational Disputes**

   In the Slovak Republic, jurisdictional rules applicable to internal disputes and those applicable to international/cross-border disputes are regulated by two different acts of legislation (apart from international conventions and EU legislation):

   (i) Act No. 99/1963 Coll., the Rules of Civil Procedure, as amended (the “Civil Procedure Rules”), containing the rules for determining the jurisdiction of a particular Slovak court in internal disputes (i.e. disputes not-containing any international/cross-border element); the civil courts in Slovakia act in civil, employment, family, commercial and economic relations; and

   (ii) The International Private Law Act, regulating the jurisdiction in cross-border/transnational disputes (i.e. disputes with a foreign element).

   The principal general rule of the International Private Law Act for determining the jurisdiction in cross-border disputes is the same as is the rule applicable for internal dispute, i.e. the court of the place where the defendant has his/its seat or residence shall have jurisdiction. It can be stated that the provisions on jurisdiction of the International Private Law Act are derived from general rules
applied in internal disputes and are influenced by the provisions of Brussels I Regulation and Brussels/Lugano Conventions.

3. Specific Rules (or Not) for Article 4(1) Jurisdiction

There is no specific set of national rules designed to govern the jurisdiction of courts in cross-border disputes in case the defendant is not domiciled in an EU Member State (i.e. in cases covered by Article 4(1) of the Brussels I Regulation). The general (traditional) rules determining the jurisdiction in cross-border disputes will apply. However, the Slovak legislator transposed, in general, the rules contained in the Brussels I Regulation into general rules of the International Private Law Act applicable for any cross-border dispute in Slovakia.

As a principal rule, the jurisdiction of Slovak courts is given, if the defendant has his/its seat or residence in the Slovak Republic, and in matters related to property rights, if the defendant's property is located in Slovakia.

In addition, the jurisdiction of Slovak courts is given also in the following cases:

a) in matters relating to employment contracts, when the plaintiff is an employee residing in the Slovak Republic;

b) in matters relating to insurance contracts, when the defendant is an insurance holder or the insured and has a seat or residence in the Slovak Republic;

c) in matters relating to consumer contracts, when the plaintiff is a consumer having his/its seat or residence in the Slovak Republic;

d) in matters of other contracts, if the goods were or had to be delivered, the services provided, or the works performed, in the territory of the Slovak Republic, otherwise if the place of performance should have been in the territory of the Slovak Republic.

The jurisdiction of the Slovak court is given also:

a) as regards claims for damages from non-contractual relations, provided the fact resulting in the claim for damages occurred or might have occurred in the territory of the Slovak Republic;

b) as regards claims for damages which is based on an act giving rise to criminal proceedings to the extent that the criminal proceedings are lead by the Slovak authorities active in criminal procedure;

c) as regards disputes relating to the operation or activities of an undertaking or branch (organisational unit) of a legal entity, provided it has its undertaking or branch located in the territory of the Slovak Republic.

The jurisdiction of the Slovak court in relation to an individual may be established by a motion/petition of a participant in proceedings:

a) if the claims in question are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements;

b) as regards to a counter-claim arising from the same facts on which the original claim, with respect to which the Slovak court has a jurisdiction, was based.

The Slovak court shall have exclusive jurisdiction in the following cases:
a) in proceedings which have as their object rights *in rem* in immovable property or tenancies of immovable property, if the property is situated in the territory of the Slovak Republic;

b) in proceedings concerned with the registration or validity of patents, trademarks, designs or other similar rights required to be deposited or registered, if the deposit or registration has been applied for, has taken place or is deemed under the rules of international law to have taken place in the territory of the Slovak Republic.

The International Private Law Act contains also provisions on prorogation of jurisdiction and special provisions on jurisdiction in: (i) family matters, (ii) matters of legal capacity, guardianship and tutorship, (iii) presumption of death matters, (iv) heritage matters, (v) redemption of documents matters and (vi) provisions on exemption from jurisdiction of Slovak courts.

4. Influence of EU Law

The national jurisdictional rules contained in the International Private Law Act were amended in recent years as to comply with the provisions of the Brussels I Regulation. Due to only recent accession of the Slovak Republic to the EU, there is a lack of practical experience and public knowledge about the judicial decisions concerning jurisdiction of Slovak courts in cross-border disputes within the EU; however, we believe that the application and interpretation of the jurisdictional rules by Slovak courts must inevitably be influenced by the case law of the European Court of Justice, also due to the fact that the rules themselves are almost identical to those contained in the Brussels I Regulation.

5. Impact of Other Sources of Law

According to the International Private Law Act, the international conventions and treaties binding upon the Slovak Republic have precedence over the rules contained in the International Private Law Act. A similar, more general rule is contained also in the Constitution of the Slovak Republic (No. 460/1992 Coll.) stating that the international treaties concerning human rights and freedoms, and the international treaties directly giving rights to natural persons and legal entities which were ratified and published in the Slovak Republic, have precedence over Slovak laws.

Apart from the international treaties and conventions, the Constitution of the Slovak Republic also contains the provisions guaranteeing the fundamental human rights and freedoms, which must be respected when solving cross-border disputes.

6. Other Specific Features

There are no other specific features in the legislation of the Slovak Republic with respect to the jurisdiction of Slovak courts in cross-border disputes.
7. Reform

Currently, there are no changes or amendments proposed to the rules of jurisdiction applicable in cross-border disputes.

(B) Bilateral and Multilateral Conventions

8. Conventions with Third States

The Slovak Republic, as a successor of the Republic of Czechoslovakia and the Socialistic Republic of Czechoslovakia (ČSSR), is a party to the following conventions and agreements, which include also certain jurisdictional rules in matters regulated by the Brussels I Regulation or Brussels II Regulation (in brackets, we include the relevant number of publication in the Slovak Collection of Laws):

Bilateral conventions:
- Convention between ČSSR and Democratic Republic of Afghanistan on legal aid in civil and criminal matters; Prague, 6 June 6, 1981 (Decree No. 44/1983 Coll.);
- Convention between Republic of Czechoslovakia and People's Republic of Albania on legal aid in civil, family and criminal matters; Prague, 1 January 1959 (Decree No. 97/1960 Coll.);
- Convention between ČSSR and People's Democratic Republic of Algeria on legal aid in civil, family and criminal matters; Algiers, 4 February 1981 (Decree No. 17/1984 Coll.);
- Convention between ČSSR and People's Republic of Bulgaria on legal aid and regulation of legal relationship in civil, family and criminal matters; Sofia, 25 November 1976 (Decree No. 3/1978 Coll.);
- Convention between ČSSR and People's Democratic of Yemen on legal aid in civil and criminal matters; Prague, 19 January 1989 (Notification No. 76/1990 Coll.);
- Convention between ČSSR and Socialist Federal Republic of Yugoslavia on regulation of legal relationship in civil, family and criminal matters; Belgrade, 20 January 1964 (Decree No. 207/1964 Coll.); it is valid towards all succession countries of SFRY: Bosnia and Herzegovina, Croatia, Macedonia, Slovenia, Serbia and Montenegro;
- Convention between ČSSR and Democratic People's Republic of Korea on mutual legal aid in civil, family and criminal matters, P'yŏngyang, 11 September 1988 (Decree No. 93/1989 Coll.);
- Convention between ČSSR and Republic of Cuba on mutual legal aid in civil, family and criminal matters; Prague, 18 April 1980 (Decree No. 80/1981 Coll.);
- Convention between ČSSR and Democratic People's Republic of Mongolia on providing legal aid and on legal relationship in civil, family and criminal matters; Ulaanbaatar, 10 October 1976 (Decree No. 106/1978 Coll.);
- Convention between Republic of Czechoslovakia and People's Republic of Romania on legal aid in civil, family and criminal matters; Prague, 10 October 1958 (Decree No. 31/1959);
- Convention between ČSSR and Syrian Arab Republic on legal aid in civil, family and criminal matters; Damascus, 18 April 1984 (Decree No. 8/1986 Coll.);
- Agreement between Republic of Czechoslovakia and Switzerland on mutual legal aid in civil and commercial matters with Annex Protocol; Bern, 21 December 1926 (Decree No. 9/1928 Coll.);
- Agreement between Republic of Czechoslovakia and Switzerland on recognition and enforcement of judgments; Bern, 21 December 1926 (Decree No. 23/1929 Coll.);
- Convention between ČSSR and Tunisian Republic on legal aid in civil and criminal matters, on recognition and enforcement of judgments and on extradition with Annex Protocol; Tunis, 12 April 1979 (Decree No. 40/1981 Coll.).
9. Practical Impact of international conventions with third states

As a general rule, the international treaties and conventions to which the Slovak Republic is a signatory and which are therefore binding upon the Slovak Republic, have precedence to the rules of national Slovak law if they regulate the fundamental human rights, or directly establish rights to natural persons or legal entities and were declared and published in compliance with Slovak law. Therefore, all international or bilateral treaties meeting those criteria shall be respected in practice, also in matters of international cross-border jurisdiction.

(C) Applicable National Rules Pursuant to Article 4 of the Brussels I Regulation

10. Structure
The general rule is that the jurisdiction of the Slovak courts is determined if the defendant is domiciled or having its seat in the Slovak Republic or if he has a property in the Slovak Republic in the event the rights in property are object of a dispute.

For further details of the rules of jurisdiction, please see Section 3.

Irrespective of any rules of jurisdiction, Slovak courts have the exclusive jurisdiction, regardless of domicile of the parties to dispute:

a) in proceedings, which have as their object rights in rem in immovable property or tenancies of immovable property if the property is situated in the Slovak Republic,

b) in proceedings concerned with the registration or validity of patents, trademarks, designs or other rights required to be registered or for which it is required to apply for protection in which the registration or protection has been applied for, has taken place in the Slovak Republic or is under term of international law deemed to have taken place in the Slovak Republic.

11. General Jurisdiction

According to Section 37 of the International Private Law Act, the general rule is that the jurisdiction of the Slovak courts is determined if the defendant is domiciled or having its seat in the Slovak Republic or if he has a property in the Slovak Republic, when the rights in property are object of a dispute.

12. Specific Rules of Jurisdiction

a) Contract

Section 37a letter d) of the International Private Law Act determines the jurisdiction of Slovak courts in contract matters other than (i) employment, (ii) insurance or (iii) consumer contracts, if the goods should have been or was handed over, services provided or work performed in the territory of the Slovak Republic, otherwise if the place of performance of obligation should have been established in the territory of the Slovak Republic.

b) Tort

The connecting factor used in tort matters is the place of damage. According to Section 37b letter a) of the International Private Law Act, the jurisdiction of Slovak court is determined in matters of claims of damages from other than contractual relations if the harmful event occurred or might occur in the Slovak Republic.

c) Criminal Proceedings

According to Section 37b letter b) of the International Private Law Act, the jurisdiction of a Slovak court is determined in matters of civil claims for damages which is based on act considered as a crime if the criminal proceedings is entertained by Slovak authorities entitled to entertain and proceedings.

d) Secondary Establishment
According to Section 37b letter c) of the International Private Law Act, action can be brought on the basis of secondary establishment in Slovakia provided that the jurisdiction of Slovak courts is determined in disputes relating to undertaking or to activities of the enterprise or the branch of legal entity if the enterprise or branch is situated in the territory of the Slovak Republic

e) Trust

Since the juridical institute of trust is not regulated by Slovak law, the International Private Law Act does not set out the jurisdiction of Slovak courts in matters relating to trust.

f) Arrest and/or location of Property

There is no specific ground of jurisdiction for arrest of property matters in the Slovak Republic unless any of the general or aforementioned specific rules for jurisdiction applies. In the event the jurisdiction of the Slovak court is not determined, it may, upon a motion of a party to dispute to order a preliminary injunction. Such a preliminary injunction takes effect only in the Slovak Republic.

13. Protective Rules of Jurisdiction

a) Consumer Contracts

According to Section 37a letter c) of the International Private Law Act, the jurisdiction of Slovak courts is determined in matters relating to consumer contracts if the consumer is domiciled in the Slovak Republic, irrespective of his nationality.

Thus, a consumer domiciled in the Slovak Republic is entitled to bring a claim before Slovak courts against a professional domiciled in a non-EU state. A consumer domiciled in an EU-State other than the Slovak Republic or a professional domiciled in the EU can bring a claim before Slovak courts against the other party to the consumer contract domiciled in a non-EU state only in the event the jurisdiction of Slovak courts is determined by an agreement concluded between the parties conferring jurisdiction on Slovak courts. The agreement on jurisdiction is, however, valid only if such agreement does not exclude the jurisdiction of a state in which the claimant is domiciled or such agreement was concluded after a dispute had been established.

b) Individual Employment Contracts

According to Section 37a letter a) of the International Private Law Act, the jurisdiction of Slovak courts is determined in matters relating to employment contracts, if the plaintiff is an employee domiciled in the Slovak Republic. All other cases are subject to the general rule of jurisdiction and to other specific provisions of jurisdiction.

Thus, an employee domiciled in the Slovak Republic is entitled to bring a claim before a Slovak court against an employer domiciled in a non-EU state under the mentioned special provision. An employee domiciled in an EU-State other than the Slovak Republic or an employer domiciled in the EU can bring a claim before a Slovak court against the other party to the employment contract domiciled in a non-EU state only if the jurisdiction on Slovak courts is determined by an agreement of the parties conferring jurisdiction of Slovak courts. The agreement on jurisdiction is valid only provided that such agreement does not exclude the jurisdiction of a state in which the claimant is domiciled or it was concluded after the dispute had been established.
c) Insurance Contracts

According to Section 37a letter b) of the International Private Law Act, the jurisdiction of Slovak courts is determined if a claimant is a person obliged to pay premium or a beneficiary and the claimant is domiciled in the Slovak Republic.

The person committed to pay premium or a beneficiary domiciled in the Slovak Republic can bring a claim before Slovak courts against an insurer domiciled in a non-EU state under the mentioned special provision. An (i) insured, policyholder or beneficiary domiciled in EU-State other than the Slovak Republic or (ii) an insurer domiciled in the EU can bring a claim before Slovak courts against the other party to the insurance contract domiciled in a non-EU state only if the jurisdiction of Slovak courts is conferred upon an agreement of the parties. The agreement on jurisdiction is valid only provided that such agreement does not exclude the jurisdiction of a state in which the claimant is domiciled or it was concluded after the dispute had been established.

d) Distribution Contracts

The rules of jurisdiction in respect of distribution contracts are stipulated not exclusively for distribution contracts but for other contracts than employment, insurance and consumer contracts. The jurisdiction of Slovak courts is determined if the goods should have been or were delivered, services provided or work performed in the Slovak Republic; otherwise if the place of fulfilment should have been or was situated in the Slovak Republic.

e) Protective Rules in Other Matters

There are no other specific rules of jurisdiction in any other specific matters.

14. Rules for the Consolidation of Claims

The jurisdiction of the Slovak court pursuant to Section 37c of the International Private Law Act may be determined towards a person by a proposal of a party to the procedure:

(i) when the proceedings deal with such connected rights and duties, that it is needed hear and determine them together to avoid the risk of expedient to irreconcilable judgements resulting from separate processing;

(ii) on a counter-claim arising from the same facts on which the original claim was based, in the court in which the original claim is pending.

a) Co-Defendants

Please see (i) above. The jurisdiction of the Slovak court may be determined only upon a proposal of a party to dispute.

b) Third Party Proceedings

Please see (i) and (ii) above.

c) Counter-Claims
A party domiciled in the Slovak Republic that has been sued by a party domiciled in a non-EU state can bring a counter-claim against the former party before a Slovak court, when the counter-claim is related by the fact to the other party's claim, on which the jurisdiction of the Slovak court is given. In this case the jurisdiction of the Slovak court is given only upon a motion of a party to dispute.

\( d) \) Related Claims

There is no other specific jurisdictional rule for related claim.

\( e) \) Any Problems Pertaining to Lack of Harmonisation

There has not been any specific problem in practice, so far.

15. Rules of Jurisdiction Pursuant to Annex I of Brussels I

a) The rules listed in annex I

The following jurisdictional rules: Section 37, 39 and 46 of the International Private Law Act are listed in Annex I of the Brussels I Regulation; which sections are read as follows:

Section 37:
Unless stipulated otherwise, the jurisdiction of the Slovak courts is determined if the defendant is domiciled or has its seat in the Slovak Republic and if he has a property in the Slovak Republic, when the rights in property are object of a dispute.

Section 39:
Slovak courts shall have jurisdiction over the matters of care for minors, if the minor has his her usual abode in the territory of the Slovak Republic if his or her unusual abode cannot be established.

Slovak courts shall also have jurisdiction over the matters of care for minor refugees or infants who have been brought to the territory of the Slovak Republic in consequence of disturbances in their home country.

If a Slovak court does not have jurisdiction over the matters of care for minors, it shall only take the measures necessary to protect the person or property of the minor and notify thereof the pertinent body of the state in which the minor has his or her usual abode. The measures shall be taken in accordance with Slovak substantive law.

In proceedings on dissolution of marriage by divorce, invalidity of marriage or determination as to whether or not there is a marriage, Slovak courts shall have the authority to determine also the rights and obligations of the parents to their mutual child, if

a) the child has his or her usual abode in the territory of the Slovak Republic, or

b) if at least one of the parents has parental rights and obligations towards the child, the spouses expressly submitted to the jurisdiction of the court, and the exercise of the jurisdiction is to the best interests of the child.
Section 46:
Slovak courts shall have the jurisdiction to declare documents issued abroad redeemed only if the redemption thereof can have, depending on the nature of the matter, legal effects in the Slovak Republic.

b) Practical use of the rules listed in Annex I
The above rules are applied in family matters.

c) Extension of jurisdiction pursuant to article 4(2) of Brussels I
There is no case where the Slovak court applied article 4(2) of the Brussels I Regulation known at presence.

16. Forum necessitatis
There are several rules allowing Slovak courts to exercise jurisdiction on the forum necessitatis basis. In case there is an agreement on jurisdiction grounding the exclusive jurisdiction of a foreign court, however the jurisdiction of the Slovak court remains when the chosen court refuses to handle the dispute.

(D) National Jurisdiction & Enforcement of Non-EU Judgments

17. National rules of jurisdiction barring the enforcement of a non-EU judgment
According to Section 64 of the International Private Law Act, the foreign judgement cannot be recognised or enforced when it is restrained by the exclusive jurisdiction of Slovak courts.

The jurisdiction of Slovak courts is exclusively determined

a) in proceedings, which have as their object rights in rem in immovable property or tenancies of immovable property if the property is situated in the Slovak Republic,

b) in proceedings concerned with the registration or validity of patents, trademarks, designs or other rights required to be registered or for which it is required to apply for protection in which the registration or protection has been applied for, has taken place in the Slovak Republic or is under term of international law deemed to have taken place in the Slovak Republic.

Another reason for denying recognition or enforcement of the foreign judgement in the Slovak Republic, besides others, is when the Slovak court has already lawfully decided in the matter.

(E) Declining Jurisdiction

18. Forum Non Conveniens
Based on the Slovak legislation, the Slovak courts may not in general decline jurisdiction, if their jurisdiction is given under applicable legal rules. However, the Slovak courts often tend to avoid deciding cross-border cases and to decline their jurisdiction based on the lack of sufficient
connection to the Slovak territory or Slovak law of a particular case. This practice is used in the same way with respect to both, non-EU States and EU States.

19. Declining Jurisdiction when the Defendant is Domiciled in a Third State

(a) Non-EU Jurisdiction Agreements

According to the International Private Law Act, the jurisdiction based on a choice-of-court clause is exclusive, unless the parties agree otherwise. Therefore, if the choice-of-court clause determines the court of a non-EU state, the Slovak court will decline its jurisdiction in favour of that non-EU court.

The above is subject to the following exemptions:

(i) the choice-of-court clause is excluded in case of exclusive jurisdiction of Slovak courts pursuant to the International Private Law Act (please see Section 17 above);
(ii) if the choice-of-court clause was established in favour of one of the parties, his/its right to seize the Slovak court shall not be affected and in such case, the Slovak court may accept jurisdiction even if the choice-of-court clause refers to a non-EU court;
(iii) the choice-of-court clause concerning employment contracts, insurance contracts and consumer contracts is valid only if it does not exclude the jurisdiction of the court of the state, where the plaintiff is domiciled, or if the clause was concluded only after the occurrence of the dispute;
(iii) the jurisdiction of the Slovak court remains, when the court referred to by the choice-of-court clause refuses to act.
(b) Parallel Proceedings in a non-EU court

There are no special provisions dealing with cross-border proceedings in this case. Based on a general principle that it is not possible to continue two proceedings on the same matter, we presume that the Slovak court seized in a matter, in which parallel proceedings are held by a non-EU court, would decline its jurisdiction or stay the proceedings, if the proceedings before the non-EU court started earlier (therefore, the prior tempore rule would apply).

(c) “Exclusive” Jurisdiction in a non-EU State

In case the matter brought before a Slovak court is closely related to a non-EU State, we believe the Slovak courts would decline their jurisdiction in favour of the non-EU court, unless the conditions are given for exclusive jurisdiction of Slovak courts pursuant to the International Private Law Act, or unless the parties have chosen the jurisdiction of Slovak courts as an exclusive jurisdiction.

20. Declining Jurisdiction When the Defendant is Domiciled in the EU

Under Slovak law, there are no special rules regulating the jurisdiction in case the defendant is domiciled in an EU State; therefore, the same rules and provisions would apply in this case as described in Section 19 above, unless they contradict to the Brussels I Regulation, in which case the provisions of the Regulation would apply.

(a) Non-EU Jurisdiction Agreements

When there is a choice-of-court clause designating the court of non-EU state, the Slovak courts would respect the choice-of-court clause and would decline their jurisdiction in favour of the non-EU court, unless it is expressly agreed by the parties to the choice-of-court clause that the chosen jurisdiction is not exclusive.

(b) Parallel Proceedings in a non-EU court

In a case where a non-EU state court is seized of a parallel proceedings, we assume the Slovak court would not decline its jurisdiction if the jurisdiction of Slovak courts is given under Brussels I Regulation and the national jurisdictional rules, unless any parallel proceedings commenced prior to the proceedings before the Slovak court.

(c) “Exclusive” Jurisdiction in a non-EU State

If an “exclusive jurisdiction” of a non-EU state is given, we believe the Slovak courts would respect such exclusive jurisdiction of the non-EU state.
(F) The Adequate Protection (or lack thereof) of EU Nationals and/or Domiciliaries through the Application of Domestic Jurisdictional Rules

21. Use of National Jurisdictional Rules to Avoid an Inadequate Protection in Non-EU Courts

Under Slovak law, under certain circumstances a decision of a foreign court cannot be recognized and enforced in the Slovak Republic if the concerned party had been deprived of the right for fair trial. However, no landmark case dealing with this type of issue has been noted so far.

22. Lack of Jurisdiction Under National Rules Having the Effect to Deprive EU Plaintiffs of an Adequate Protection

As Slovak law is not based on jurisprudence and case-law, we are not aware of any important cases where the Slovak courts would have found not to have jurisdiction or have declined jurisdiction to hear a claim brought by an EU domiciliary, either in case of a claim by a consumer against a professional domiciled in a non-EU state, or a claim brought by an employee against an employer domiciled in a non-EU state, or a claim brought by a plaintiff domiciled in the EU in Community related matters.

23. Lack of Adequate Protection as a Consequence of Transfer of Domicile to or from a Third State

No case has been noted so far where a Slovak national has not been able to invoke the protection of Community legislation because the person(s) involved was (were) no longer domiciled in the EU at the time the proceeding was instituted.


In principle, the EU rules and principles should be respected by Slovak courts, and there should not be any risk of jeopardy of EU rules and principles because of the application of domestic jurisdictional rules. No landmark cases in this connection have been noted.

(G) Residual Jurisdiction under the new Brussels II Regulation

25. Applicable National Rules Pursuant to article 14 of the New Brussels II Regulation (Parental Responsibility)

The International Private Law Act does not contain any special rules for determining the jurisdiction in cases not covered by Articles 8 to 13 of the Brussels II bis Regulation; therefore, the general rules regulating the jurisdiction in family matters will apply. These provisions cover the jurisdiction in case of maintenance, custody of children, adoption, and determination of parenthood.
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i. The jurisdiction of Slovak courts in maintenance matters is given if the entitled or obliged person is domiciled or usually resides in the Slovak Republic.

ii. In case of custody of children, the Slovak courts have jurisdiction if the usual place of stay of the child is in the Slovak Republic, or if its usual place of stay cannot be determined.

iii. For determination of parenthood, the Slovak courts may be seized if the plaintiff has its general court in the Slovak Republic, or if one of the parents or the child are Slovak citizens.

iv. In case of adoption, the Slovak courts have jurisdiction if the person adopting a child is a Slovak citizen.

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26. NA

27. Conventions with Third States in Matters of Parental Responsibility (and maintenance of children)

What are the international (and in particular bilateral) conventions concluded between your country and non-EU countries that include rules of jurisdiction in matters of parental responsibility (and maintenance of children)?

Please find below the list of international conventions concluded by the Slovak Republic and bilateral conventions concluded between the Slovak Republic and third (non-EU) countries that also include jurisdictional rules in matters of parental responsibility:

**Multilateral conventions:**

- UN Convention of 20 June 1956 on the Recovery Abroad of Maintenance concluded in New York;
- European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children concluded in Luxembourg;
- Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations concluded in Hague's Conference on Private International Law;
- Convention of 15 April 1958 concerning the Recognition and Enforcement of Decisions relating to Maintenance Obligations towards Children concluded in Hague's Conference on Private International Law;

- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption concluded in Hague's Conference on Private International Law;


**Bilateral conventions:**

- Convention of 16 January 1959 concluded with the People's Republic of Albania on legal assistance in civil, patrimonial and criminal matters, concluded in Prague;

- Convention of 20 January 1964 concluded with the Socialist Federal Republic of Yugoslavia on legal relationships in respect of civil, patrimonial and criminal matters, concluded in Belgrade (shall remain applicable to all of the successive countries Bosnia and Herzegovina, Croatia, Montenegro, the Republic of Macedonia, Serbia and Slovenia);

- Convention of 11 September 1988 concluded with the Democratic People's Republic of Korea on judicial cooperation in civil, patrimonial and criminal matters, concluded in Pyongyang;

- Convention of 18 April 1980 concluded with the Republic of Cuba on judicial cooperation in civil, patrimonial and criminal matters, concluded in Prague;

- Convention of 15 October 1976 concluded with the Mongolian People's Republic on legal assistance and legal relationships in respect of civil, patrimonial and criminal matters, concluded in Ulaanbaatar;

- Convention of 12 October 1982 concluded with the Socialist Republic of Vietnam on legal assistance in civil and criminal matters, concluded in Prague;

- Convention of 12 August 1982 concluded with the Union of Soviet Socialist Republics on legal assistance and legal relationships in respect of civil, patrimonial and criminal matters, concluded in Moscow (shall remain applicable to the Russian Federation, Armenia, Azerbaijan, Belarus, Kazakhstan, Moldavia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan);

In addition, the below listed conventions do not particularly include the jurisdictional rules in matters of parental responsibility, however, address to the recognition and enforcement of judgments relating to this matter:

- Convention of 24 June 1981 concluded with the Democratic Republic of Afghanistan on legal assistance in civil and criminal matters, concluded in Prague;

- Convention of 4 February 1981 concluded with the People's Democratic Republic of Algeria on legal assistance in civil, patrimonial and criminal matters, concluded in Algiers;
- Convention of 23 April 1982 concluded with the Republic of Cyprus on legal assistance in civil and criminal matters, concluded in Nicosia;
- Convention of 19 January 1989 concluded with the People's Democratic Republic of Yemen, on legal assistance in civil and criminal matters, concluded in Prague;
- Convention of 18 April 1984 concluded with the Syrian Arab Republic, on legal assistance in civil, patrimonial and criminal matters, concluded in Damascus;
- Convention of 12 April 1979 concluded with the Tunisian Republic, on legal assistance in civil and criminal matters, on recognition and enforcement of judgments and on extradition, concluded in Tunis;

28. Jurisdiction as a Ground for Resisting the Enforcement of non-EU Judgment in Matters of Parental Responsibility

*Can the judgment of a non-EU State relating to matters of parental responsibility (for instance, a judgment given the guardianship of a child to one of the parents) be denied recognition or enforcement in your country on the basis that the courts of your country are the only ones who have jurisdiction to entertain the matter? If so, what is (are) the ground(s) of these “exclusive” rules of jurisdiction (e.g., habitual residence of the child in your country, citizenship of one or several of the parties, etc.)?

Under Slovak law, judicial decisions on matters relating to parental responsibility do not fall within the matters where the Slovak courts have the exclusivity. Thus, judgments of a non-Slovak court shall be, generally, recognized or enforced in Slovakia in this respect, provided that certain conditions set by Slovak law have been fulfilled. The relevant bilateral convention should be, however, considered where applicable.

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