

## Slovakia

Martin Provazník  
bpv Braun Partners, Bratislava  
martin.provaznik@bpv-bp.com

### 1. What are the basic criteria for the courts of your jurisdiction to allow enforcement of a foreign judgment?

A foreign judgement can be enforced in Slovakia. There are three situations that can happen when enforcing foreign judgements in Slovakia:

- (i) The foreign judgement is from an EU Member state: In this case, the judgement is directly enforceable based on EU law.
- (ii) The foreign judgement is from a state that has concluded an international treaty with Slovakia on foreign judgment enforcement: In this case, it is necessary to review the specific conditions under which the judgement can be enforced. These specific conditions are regulated in the given international treaty and can vary. Note, that Slovakia was historically as Czechoslovakia part of the “Soviet block”. Therefore, Slovakia has historically numerous valid international treaties on foreign judgement enforcement with other historical members of the “Soviet block”.
- (iii) The foreign judgement is from a state that has no international treaty with Slovakia on foreign judgment enforcement: In this case, the foreign judgement must be “recognized” in a court procedure before starting the enforcement.

With regard to point (iii), the court process on “recognition” of foreign judgment is usually straightforward. The law provides negative conditions when the foreign judgement cannot be recognized or enforced, that is if:

- a) the recognition is prevented by the exclusive jurisdiction of the Slovak authorities or the authority of the foreign State would not have jurisdiction to decide if the provisions of the Slovak law were applied to the assessment of its jurisdiction,
- b) it is not final or enforceable in the State in which it was issued,
- c) it is not a decision on the substance of the case,
- d) the party against whom the decision is to be recognized has been deprived by the foreign authority of the opportunity to be heard by that authority, in particular if he has not been duly served with a summons or with a request to institute proceedings; the court shall not examine whether that condition has been satisfied if the foreign decision has been duly served on that party and that party has not appealed against it or if that party has declared that he does not insist on the examination of that condition,
- e) the Slovak court has already given a final decision in the case or there is an earlier foreign decision in the same case which has been recognized or meets the conditions for recognition,
- f) recognition would be contrary to Slovak public policy.

	With regard to the negative condition under a): This negative condition means that if the foreign court bases its jurisdiction on a principle which is not considered fair by the Slovak legal system the Slovak court will not recognize the foreign decision.
<b>2.</b>	<b>What other considerations may apply to enforcement of a foreign judgment against a state in your jurisdiction, e.g. notice provisions?</b>
	A foreign judgement can be enforced in Slovakia based on a court process, a so called “recognition” of foreign judgement process. No additional notices or consent of a political body is necessary.
<b>3.</b>	<b>What special considerations apply where the defendant/debtor in enforcement proceedings is a state, e.g. doctrine of sovereign immunity?</b>
	<p>Under the doctrine of sovereign immunity, we understand a principle by virtue of which one sovereign state cannot be sued before the courts of another sovereign state without its consent. According to the law, there is no option to use the doctrine of sovereign immunity in the recognition of foreign judgment process. We are unaware that the doctrine of sovereign immunity (per se) was used on behalf of the Slovak republic in court process on recognition of foreign judgment.</p> <p>However, the law stipulates that the foreign judgement will not be recognized in a court process, if the recognition is prevented by the exclusive jurisdiction of the Slovak authorities. According to the law, a Slovak court has exclusive jurisdiction in following cases:</p> <ul style="list-style-type: none"> <li>a) in proceedings concerning rights in rem in real estate or lease of real estate, if the immovable property is in the territory of the Slovak Republic,</li> <li>b) in proceedings concerning the registration or validity of patents, trademarks, designs or other rights which must be registered or for which protection must be sought, if the application for registration or protection is made in the territory of the Slovak Republic or is deemed to have been made in the territory of the Slovak Republic according to the rules of international law.</li> </ul>
<b>4.</b>	<b>What exceptions may apply where the claim results from improper actions of the defendant state, e.g. wars of aggression?</b>
	According to the law, Slovakia has no specific regulation allowing to defense the recognition of foreign judgement where the claim resulted from improper action of the defendant state.
<b>5.</b>	<b>What due process standards and exceptions may apply in proceedings for enforcement of judgment against a state?</b>
	According to the law, the application for recognition of a foreign judgment must make it clear to which court it is addressed, who makes it, which matter it relates to and what it seeks. It must be signed and dated. The application must contain the identification of the foreign decision, the name of the authority which gave it, the date of the finality or

	<p>enforceability of the foreign decision and a list of the documents to be annexed to the application. The application must be submitted in the necessary number of copies and annexes so that one copy remains with the court and each party to the proceedings receives one copy.</p> <p>The applicant is obliged to attach to the application:</p> <ul style="list-style-type: none"> <li>- the original or an officially certified copy of the foreign decision in full,</li> <li>- a confirmation from the competent foreign authority to the effect that the foreign decision has become final or enforceable or that the decision can no longer be challenged by an ordinary remedy,</li> <li>- evidence that the party against whom the decision is to be recognized has not been deprived by the foreign authority of the opportunity to be heard by that authority, in particular that it has been duly served with a summons or with a request to institute proceedings,</li> <li>- officially certified translations of the attached documents into the Slovak language.</li> </ul> <p>All of the above must be provided by the applicant, who bears the burden of proof.</p>
<b>a.</b>	<p><b><i>What standard will the court apply in the enforcement proceedings when assessing whether the service requirements have been met in the original proceedings against a state?</i></b></p>
	<p>Slovak law does not specify which service method in the original proceedings is accepted and which is not. It is important that the service in the proceedings preceding the enforcement of the decision is not defective, i.e. the party to the proceedings has not been deprived of the possibility to act before the foreign authority. A hindrance to the recognition of a foreign decision is the deprivation of the right to be heard or the right to take part in the proceedings. The court will examine the form of service precisely in the context of the possibility of depriving a party of the opportunity to be heard before a foreign authority.</p> <p>According to Slovak case-law, the concept of proper service is to be interpreted according to Slovak law, but the formalities of such service are to be assessed according to the law of the State where the party should have been served.</p>
<b>b.</b>	<p><b><i>What exceptions may apply where conventional forms of service against a state are impossible, e.g. due to absence of diplomatic relations?</i></b></p>
	<p>As to our knowledge, Slovak law does not recognize this type of exception.</p> <p>An obstacle to the recognition of a foreign decision is the deprivation of the right to be heard or the right to participate in the proceedings. The deprivation of this right may be caused by a number of facts and reasons. Meaning, the Slovak court will review the service procedure, if due to the “non-conventional” service form the party was not deprived of the right to be heard or of the right to participate in the proceedings.</p>

c.	<b><i>What standard will the court apply in the enforcement proceedings when assessing whether the right to representation requirements have been met in the original proceedings against a state?</i></b>
	To our knowledge, Slovak law does not provide a standard of availability of representation for a foreign state that must be satisfied for the due process applicable in deciding enforcement of judgments.
d.	<b><i>What exceptions may apply where the defendant state cannot find legal representation, or chooses not to be represented?</i></b>
	Slovak law does not provide a standard of availability of representation for a foreign state that must be satisfied for the due process applicable in deciding enforcement of judgments.
6.	<b>What assets may be subject of enforcement if the claim is against a state and what are the requirements, e.g. enforcement against assets of state owned entities?</b>
	<p>According to the law, the following Slovak state assets are not subject to enforcement:</p> <ul style="list-style-type: none"> <li>a) certain immovable property of the Slovak state under the administration of a trustee pursuant to a special regulation,</li> <li>b) Slovak state budget revenues, funds in the current account of a Slovak state budget organization and claims from legal relations establishing such revenues,</li> <li>c) securities owned by the Slovak state and the Slovak state's ownership interests in legal entities,</li> <li>d) funds designed to cover the deficit of the Slovak state budget and to cover the Slovak state debt,</li> <li>e) other property of the Slovak state so provided for by a special law.</li> </ul> <p>Additional property of the Slovak state cannot be subject to enforcement if it has been excluded from enforcement on the grounds that it is strictly necessary for the performance of the tasks of the Slovak state or for the fulfilment of a public utility purpose. In such a case, the Slovak state can file a motion to exclude the items from enforcement within 60 days of the delivery of the notice of the commencement of enforcement.</p> <p>Enforcement on the Slovak state assets may be carried out only on the Slovak state assets in the administration of the Slovak state property administrator, from whose activities the claim of the beneficiary arose.</p>