

Executive summary and overview of the national report for the Slovak Republic

Section I – Summary of findings	
No specific legislation exists for the claims for damages arising from infringement of competition law in the Slovak law. No specific or similar case law is available in this area either. The general legal regulation of liability for damage does not provide a satisfactory legal framework and compensation.	
Section II – status quo and forthcoming reforms – action for damages	
A. Legal Basis	
(i) Is there an explicit statutory basis?	No
(ii) Is this statutory basis different from other actions for damages?	N/A
(iii) Is there a distinction between EC and national law in this regard?	No
B. Competent court	
(i) Which courts are competent?	General regional courts under effective legislation, as of 1 January 2005 a single district court in the first instance and a single regional court in the second instance
(ii) Are there specialised courts for private enforcement of competition rules?	District Court Bratislava II) will be competent to hear all competition cases as of 1 January 2005 in the first instance. The second instance court will be the Regional Court in Bratislava.
C. Standing	
(i) Limitations on standing of natural or legal persons, including those from other jurisdictions?	Only general requirements for legal capacity, no relevant limitations for persons from other jurisdictions
(ii) What are the connecting factor(s) required with the jurisdiction in order for an action to be admissible?	Defendant being a person having residence, seat or property concerned in the Slovak Republic, event upon which the claim is based occurring on the territory of the Slovak Republic
(iii) Is there a possibility of collective claims, class actions, actions by representative bodies or any other form of public interest litigation?	No
D. Procedural and substantive conditions	
(i) What forms of compensation are available?	Financial compensation or, upon request of plaintiff and if possible and practicable, <i>restitutio in integrum</i>
(ii) What are the other forms of civil law liability (if any)?	Liability of directors and other statutory representatives under the Commercial Code
(iii) Does the infringement have to imply fault?	No, in case of damages arising from infringement of competition rules (being subject to regulation of damages under the Commercial Code).
(iv) If so, is fault based on objective criteria?	N/A
(v) Is bad faith (intent) required?	No
(vi) Can negligence be taken into account?	No
E. Rules of evidence	

a. General	
(i) Burden of proof and identity of the party on which it rests?	Plaintiff shall prove the damage, infringement of duty by defendant and the link between them. Defendant shall prove existence of reasons for justification, if these exist.
(ii) Standard of proof	Determination on the basis of facts ascertained from evidence presented and non-contentious facts concerning the parties. The principle of "free evaluation of evidence by courts" applied. No "beyond reasonable doubt" or "preponderance of evidence" standards of proof recognised under Slovak law.
(iii) Limitations concerning form of evidence	No
(iv) Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis parties	No special rules, evidence presented before court and in specific cases in an on-spot examination
(v) Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis third parties	No special rules
(vi) Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis competition authorities (national, foreign, Commission)	No special rules
b. Proving the infringement	
(i) Is expert evidence admissible?	Yes
(ii) To what extent, if any, is cross examination permissible?	The court examines the witnesses and the parties may be permitted to do so.
(iii) Under which conditions does a statement and/or decision by a national competition authority, a national court, an authority from another EU Member State have evidential value?	Under a new regulation, the right of these authorities to produce written and oral statements to the court is explicitly provided. Their decisions or other documents may be admitted either as expert evidence or other evidence under the principle of free evaluation of evidence.
c. Proving damage	
(i) Are there any specific rules for evidence of damage?	No. As regards the loss of profits, instead of actual loss suffered the plaintiff may claim profits usually earned in same line of business.
d. Proving causation	
(i) Which level of causation must be proven: direct or indirect?	Not differentiated by law, under case law direct causation may be required
F. Grounds of justification	
(i) Are there grounds of justification?	Only those called reasons for justification, being obstacles independent of the defendant
(ii) Is the 'passing on' defence taken into account?	No, irrelevant in the method of liability determination
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(iii)	Are 'indirect purchaser' issues taken into account?	
(iv)	Is it relevant that plaintiff is (partly) responsible for the infringement (contributory negligence leading to apportionment of damages) or has benefited from the infringement?	Yes, in case of full responsibility the plaintiff is not entitled to receive compensation. Damages awarded may be proportionally reduced if plaintiff failed to prevent the damage.
G. Damages		
a. Calculation of damages		
(i)	What economic or other models are used by courts to calculate damage?	No specific models exist, courts award damages based on their assumption of the actual damage.
(ii)	Are damages awarded for injury suffered on the national territory or more widely (EC or otherwise)?	No case law exists, however compensation will not be provided for damages exceeding damages that the liable party could have envisaged as a possible result of breach of its obligation.
(iii)	Are ex ante (time of injury) or ex post (time of trial) estimates used?	Ex post estimates
(iv)	Are there maximum limits to damages?	No, the damages however may be limited by the maximum amount that the violator could have presumed his infringement could cause.
(v)	Are damages assessed on the basis of profit made by the defendant or on the basis of injury suffered by the plaintiff?	On the basis of plaintiff's injury
(vi)	Are punitive or exemplary damages available?	No
(vii)	Are fines imposed by competition authorities taken into account when settling damages?	No
b. Interest		
(i)	Is interest awarded from the date the infringement occurred the date of the judgment or the date of a decision by a competition authority?	Late interest accrues from the date of delivery of invitation to pay the damages or if such invitation was not insured, on the day of delivery of petition.
(ii)	What are the criteria to determine the levels of interest?	Interest is based on national bank basic interest rate (currently 5%) increased by 10%
(iii)	Is compound interest included?	No
H. Timing		
(i)	What is the time limit in which to institute proceedings?	Status of limitation is the only applicable time limit. The limitation period is four years from discovery of damage, however no later than ten years from its occurrence
(ii)	On average, how long do proceedings take?	Several months or a number of years in more complex cases. Proceedings commenced upon actions on damages last ca. 15 months. Proceedings concerning actions for damages arising from breach of competition rules will likely be much more complex and time consuming, altogether lasting for estimated 3 years.
(iii)	It is possible to accelerate proceedings?	No

(iv)	How many judges sit in actions for damages cases?	Three judges for competition related cases currently held at regional courts. Upon the transfer of competence to hear competition cases to the selected district court, one judge will be sitting. In the second instance, three judges will be sitting
(v)	How transparent is the procedure?	The procedure is public in general, if commercial secrecy would be threatened, publicity would be limited
I. Legal costs		
(i)	Are Court fees paid up front?	Yes, with the submission of petition
(ii)	Who bears the legal costs?	The court fee are paid by the plaintiff, other costs are born by each party
(iii)	Are contingency fees permissible?	A success fee set as percentage of value awarded is permitted under certain conditions
(iv)	Are contingency fees generally available for private enforcement of EC competition law?	No special regulation
(v)	Can the plaintiff/defendant recover costs?	Yes, successful party may recover costs, there however certain exceptions or reductions.
(vi)	What are the different types of litigation costs?	Cash expenses of the parties and their counsel, including court fees, lost income of the parties, costs of presenting evidence, fees of interpreters and experts and representation fees when the representatives are advocates
(vii)	Are there any national rules for taxation of costs?	No
(viii)	Is any form of legal aid insurance available?	Yes, the Civil Code contains special provisions on this type of insurance
(ix)	What are the likely average costs in an action brought by a third party in respect of a hard-core violation of competition law?	No case law, therefore impossible to estimate
J. General		
(i)	Are some of the answers to the previous questions specific to the private enforcement of competition rules?	No, as only general regulation exists
(ii)	If the answer to the previous question is yes, in what way do they differ from general private enforcement rules?	N/A
(iii)	EC competition rules are regarded as being of public policy. Does that influence any answers given?	No
(iv)	Are there any differences according to whether defendant is public authority or natural or legal person?	Yes, if providing services on public interest and competition rules would prevent due performance of this activity, the prohibitions under the Competition Act shall not apply
(v)	What are the key differences, if any, from region to region <u>within</u> the Member State as regards damages actions for breach of national or EC competition rules?	No case law exists. In other cases on damages, significant differences occur in amounts awarded, due to lack of calculation methods.
(vi)	Is there any interaction between leniency programmes and actions for claims for	No

	damages under competition rules?
(vii)	Please mention any other major issues relevant to the private enforcement of EC competition law in your jurisdiction
(viii)	Please provide statistics about the number of cases based upon the violation of EC competition rules in which the issue of damages was decided upon
Section III: Means to facilitate private enforcement of Articles 81 and 82 EC	
(i)	Which of the above elements of claims for damages as applied in each Member State and accession country provide scope for facilitating the private enforcement of Articles 81 and 82 EC?
(ii)	How could that be achieved?
(iii)	Are alternative means of dispute resolution available?
(iv)	If so, to what extent are they successful?