

/ New type of payment order approved by the Slovakian government

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Less than two months after the first major legal reform of the Slovakian Code of Civil Procedure entered into force, the Slovakian government has proposed a new supplementary legal Act. The new Act is intended to accelerate the speed of proceedings by introducing a new type of payment order. Compared with its predecessors, the new payment order has some interesting distinctive features, which require a closer look.

The most substantial difference is that the application needs to be made using **standard electronic form** and submitted to a specialised court exclusively by **electronic mailbox** according to the Act on e-Government. Other applications will be automatically rejected, however, without the negative effect of barring the applicant from applying once more.

Another change relates to **documentary evidence**. Unlike other similar instruments, the new regulation contains obligatory rules requiring applicants to submit evidence along with their applications. Accordingly, any application which is not accompanied by evidence will be rejected, as the claim will not appear to be founded. Depending on the nature of the subject matter, the extent of the obligation to submit evidence can be organised into three subcategories:

- ▶ **simple evidence**, when both the plaintiff and the defendant are accounting units (B2B), the following evidence will be deemed as sufficient: invoice or other similar document, accompanied by the plaintiff's declaration stating that the claim is included in its accounting records,
- ▶ **comprehensive evidence**, if the claim results from a consumer contract or other contractual documents relating to consumer contracts (B2C) – in this case it is necessary to attach the consumer contract, with all relevant and relating documents,
- ▶ **standard evidence**, which applies for cases other than a) and b) – there are no other additional requirements.

Additionally, stricter rules will also apply for defendants who intend to lodge an opposition to the payment order. According to the proposed text, all oppositions will need to be made using **standard forms** and they will need to be **justified by factual reasons**. Unlike applications, they do not need to be submitted by means of electronic communication.

The defendant generally does not have any obligation to submit the opposition with evidence, however, if the plaintiff is a VAT payer and if has declared that the claim was included in a control statement; the defendant will then have to submit documentary evidence as well, given that the claim has also been included in the defendant's own control statement.

There is no doubt that the regulation is very **consumer-friendly**, as any claim will be deemed inadmissible if:

1. the contract contains unfair contract terms, or
2. payment for goods or services is claimed, but they have not yet been delivered or provided, or
3. the consumer was not called upon to pay in the last three months before the application was submitted.

The Act even introduces a new instrument - request for payment by installment, which is presumably also designed for consumers. The court may, however, decide whether it grants this motion.

A strong motivation for applicants is the **reduction of court costs**, which will be 50% lower than standard court costs. However, despite efforts to reduce the length of proceedings, we assume that the proposed legal Act will not have any direct significant impact on the actual length of the proceedings, since the courts will have to examine the evidence and in some cases even to require cooperation from tax authorities to determine whether the opposition is properly justified.

If the Act will be adopted by the National Council as expected, it will enter into force on **1 January 2017**.

Contact

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