



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Slovakia
Title:	Parliament Adopting a New Civil Dispute Act
Date:	4 August 2015
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<u>Context</u>	
Issue at stake:	On 21 May 2015, the Slovak Parliament adopted a new Civil Dispute Act. The Act will have impacts on proceedings concerning alleged violations of the principle of equal treatment. The Act will come into effect on 1 July 2016.
Ground of discrimination:	All grounds
Source:	Legislation
Field:	All fields
Applicable law:	Act No 160/2015 Coll. Civil Dispute Act (<i>zákon č. 160/2015 Z. z. Civilný sporový poriadok</i>)

Content

Law development: On 21 May 2015, the Slovak Parliament adopted a new Civil Dispute Act, coming into effect on 1 July 2016. The Act regulates proceedings in private law matters (and some other matters) in general and also focuses on some particular types of proceedings, including those concerning alleged violations of the principle of equal treatment. The Act abolishes the Civil Procedure Act, which has been in force since 1964.¹ The Act introduces many new rules for all proceedings that will take place pursuant to this Act, with some exceptions for some special types of proceedings including anti-discrimination proceedings.

A change of a general character but with a great significance for proceedings concerning equal treatment is clarity in rules concerning submitting audio and video records as evidence. The Act stipulates that the only admissible evidence is evidence that has been obtained legally.² However, the Act provides an exception to this rule, in particular the situation when the `justifiability of carrying out such evidence acquired contrary to the law is foreseen by applying Article 3(1) [of the Basic Principles of the Act]`.³ Article 3(1) of the Basic Principles stipulates that each provision of the Act requires interpretation that is in accordance with the Constitution, with the public order, with principles on which this Act is based, with international obligations of the Slovak Republic that take precedence over laws, with case-law of ECtHR and CJEU, and with permanent regard to the values that are protected by these sources. The explanatory report that was

¹ Act No 99/1963 Coll. Civil Procedure Act, as amended (zákon č. 99/1963 Zb. Občiansky súdny poriadok v znení neskorších predpisov).

² Section 187 and Article 16(2) of the Basic Principles of the Act.

³ Article 16(2) of the General Principles of the Civil Dispute Procedure Bill, available at <https://lt.justice.gov.sk/Document/DocumentDetails.aspx?instEID=1&matEID=7581&docEID=383879&docFormEID=-1&docTypeEID=1&langEID=1&tStamp=20150211153256833> (accessed 26 April 2015).

submitted together with this bill makes it clear that proceedings concerning discrimination should be an example of cases when this exception will be applied.⁴

The Act introduces the concept of 'Disputes with the Protection of a Weaker Party' where it deviates from some of the general rules contained in the Act, with the aim to mitigate the power imbalance between the parties to these proceedings. Consumer, anti-discrimination, and individual labour disputes (that also include disputes connected to violations of the principle of equal treatment⁵) are the three types of disputes with the protection of a weaker party.⁶ In the regulation of anti-discrimination disputes,⁷ the Act refers to anti-discrimination legislation (in practice mainly the Anti-Discrimination Act),⁸ and stipulates that the procedural provisions contained in anti-discrimination legislation (e.g. on the burden of proof) take precedence over the Civil Dispute Act.⁹ Among the exemptions from the general procedural rules contained in the Act that apply to anti-discrimination disputes are for example a broader duty of the court to instruct the complainants on their rights,¹⁰ the possibility for the court to seek evidence on its own initiative (the consent of the complainant with seeking such evidence and taking it into account by the court is, however, not required),¹¹ the possibility of the complainant to submit evidence until the decision on the merits is delivered (as compared to other proceedings where the period for submitting evidence is shorter),¹² and the duty of courts to conduct hearings in all anti-discrimination proceedings (except for when the complainant agrees to omitting the hearing).¹³

The Act also introduced the possibility for NGOs and the Slovak National Centre for Human Rights to represent complainants when referring to the Supreme Court with an extraordinary appeal (in disputes concerning violations of the principle of equal treatment).¹⁴ Under the legislation currently in force, legal representation by these entities is only possible before regular courts (i. e. courts of the first and second instance).¹⁵

Key points of analysis:

- A brand-new law substantially changing the whole system of civil procedure
- Newly-added section on 'Disputes with the Protection of a Weaker Party', with anti-discrimination disputes being part of them
- Changes with regard to anti-discrimination disputes generally positive (and adopted after constructive dialogue with NGOs) but the application in practice remains to be seen

Internet link source:

<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/160/20160701> , Last accessed 04/08/2015

⁴ Explanatory Report to the Civil Dispute Act, Special Part (*Osobitná časť*), p 4. available at <http://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=6&ID=1333> (accessed 21 July 2015).

⁵ See Section 316(2) of the Act.

⁶ See Sections 290-323 of the Act.

⁷ Sections 307-315.

⁸ Section 307 of the Act.

⁹ Section 315(2) of the Act.

¹⁰ Section 309 of the Act.

¹¹ See Section 311 of the Act.

¹² See Section 312 of the Act.

¹³ See Section 314 of the Act.

¹⁴ See Section 429(2)(b) of the Act.

¹⁵ The representation, however, remains impossible for proceedings before the Constitutional Court. Changing this situation would require an amendment of a constitutional law on proceedings before the Constitutional Court.