

ELECTRONIC DEBT COLLECTION

The Slovak Republic's favorable environment for investors and entrepreneurship has sometimes been obscured by law enforcement issues. The country's Act No. 307/2016 Coll. on Electronic Debt Collection (the "Act"), which became effective in the Slovak legal system on February 1, 2017, was designed to improve law enforcement, speed up debt collection for creditors, and optimize expenses related to the procedure. The Act provided for simplified court proceedings held by electronic means with less administration and a reduced burden of proof, leading to an electronic payment order issuance, providing a quicker alternative to standard payment order judicial proceedings.

How Does Electronic Debt Collection Work?

The specific process of electronic debt collection is assigned to only one court in Slovakia: the District Court of Banska Bystrica. Recovery is commenced by launching a judicial action via a standardized electronic form. Electronic debt collection is possible provided that the enforced claim follows from the evidence provided to the court – *i.e.*, from an invoice or a pre-litigation call leading to a claim declared by the creditor to have been recorded in its accounting books. If a creditor is a VAT payer it may also declare a claim that was recorded in its VAT statement.

The Act also provides for an exclusion of certain claims from electronic debt collection, such as where contractual default interest rates exceeded the statutory rates by more than 5%, and provides for additional conditions for debts to be recovered from consumers. From a general point of view, the exemptions under the Act should not affect the majority of regular debt recoveries arising from business relations between entrepreneurs; still, they must be kept in mind and checked *ad hoc*.

Creditors do not need to support their claims with excessive evidence when launching judicial actions, as the legislator took accounting and taxation obligations of creditors into consideration, so creditors may rely on the accuracy of submitted invoices and financial information. Provided that all formalities are fulfilled, the court will issue an electronic payment order in only ten working days.

The electronic payment order must be delivered to a defendant with acknowledgement of receipt. If delivery is not successful, the court is obliged to notify the creditor. Subsequently, the creditor shall declare whether it agrees to enforcement under regular court proceedings with a strict burden of proof; failure to so agree will terminate the enforcement. On the other hand, if the delivery is successful, a defendant has the right to appeal the electronic payment order. Notice that the appeal has been lodged must be provided to the creditor. In this case, a creditor shall decide whether the enforcement will be finalized in standard court proceedings and under the regular rules on division of the burden of proof. If the defendant does not oppose the electronic payment order, the decision is valid and effective.

What are the Advantages of Electronic Debt Collection?

The most important advantage from the creditor's perspective is the 50% reduction of court fees, as a court fee of 6% of the claimed debt must be paid for regular court proceedings, but only 3% of enforced debt is payable for electronic debt collection.

PETERKA PARTNERS

THE CEE LAW FIRM

Another important advantage is that judicial action is in a straightforward electronic form which requires filling in mandatory particularities and concise justification. The administrative burden related to electronic debt collection is usually very low.

In addition, the burden of proof of a creditor is limited under the Act, which allows a creditor to quickly initiate the enforcement of debts even with challenging schedules or shortly before the debt is time barred.

The procedure itself is quick and smooth, as it is partially done by a set of automatized steps, such as the call for payment of the court fee, which is an automatic message generated by the system immediately after a judicial action is lodged. Prompt payment of the court fee ensures immediate assigning of the matter to an officer of the court. If all formal conditions are met the court issues a payment order much quicker than in a regular proceeding.

Conclusion

The advantages this system has introduced have proved to be effective and attractive for creditors. Since the implementation of this new system under the Act, creditors tend to opt for electronic debt collection.

Andrea Butasova, Partner, Director for Slovakia

And

Beata Kusnirova, Senior Associate

PETERKA & PARTNERS