

PRIVATE INTERNATIONAL LAW AND PROCEDURE ACT (Official Gazette of the Republic of Slovenia, No. 56/99)

This translation is prepared by Andrej Zupančič, Attorney-at-Law.

Chapter one BASIC PROVISIONS

Article 1

- (1) This Act contains rules for determining the law that shall be used in all personal, family, social labour, property and other civil law relations with an international element.
- (2) This Act also contains rules for determining the jurisdiction of courts of law and other bodies in the Republic of Slovenia to deal with relations from the first paragraph of this Article, the rules of procedure and the rules which govern recognition and enforcement of foreign judicial decisions and foreign arbitral awards and decisions by other bodies.

Articles 2 and 3 omitted

Article 4

This Act shall not be used for relations which are regulated by another act or an international treaty.

Chapter four RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

1. Recognition and enforcement of foreign judicial decisions

Article 94

- (1) A foreign judicial decision shall have the same status as a decision of a court of the Republic of Slovenia, and shall have the same legal effect in the Republic of Slovenia as a domestic judicial decision, only if it is recognized by a court of the Republic of Slovenia.
- (2) A foreign judicial decision referred to in the first paragraph of this Article shall also denote a settlement made before a court (in-court settlement).
- (3) A foreign judicial decision shall also denote a decision of another body, which has the same status as a judicial decision or an in-court settlement in the State where it was issued, if it governs the relationships set out in Article 1 of this Act.

Article 95

- (1) A petitioner for recognition of a foreign judicial decision shall attach to his petition the foreign judicial decision in question or its authenticated copy, and submit an attestation of a competent foreign court or another body, proving this decision to be final under the laws of the State in which it was issued.
- (2) If a foreign judicial decision or its authenticated copy is not in the official language used by the court, the party seeking recognition shall also produce a certified translation of a foreign judicial decision into the official language used by the court.

Article 96

(1) The court of the Republic of Slovenia shall deny recognition of a foreign judicial decision, if upon objection of the person against whom the decision was rendered, it finds that due to irregularities in the proceedings, this person had no opportunity to participate in them.

(2) In particular, it shall be considered that a person against whom a foreign judicial decision was rendered did not have the opportunity to participate in the proceedings, if the summons, the statement of claim or the ruling commencing the proceedings, were not served on him personally or if such personal service was not even attempted, unless such person began pleading the substantive issues of the case in the proceedings taking place at the first instance, in any way.

Article 97

(1) A foreign judicial decision shall not be recognized if a court or other body of the Republic of Slovenia has the exclusive jurisdiction over the matter in question.

(2) If recognition of a foreign judicial decision rendered in a matrimonial dispute is requested by the respondent, or if such a request is made by the petitioner, and the respondent does not object to it, the exclusive jurisdiction of the court of the Republic of Slovenia shall not preclude the recognition thereof.

Article 98

(1) Upon objection of a person against whom the decision was rendered, the court shall deny recognition of a foreign judicial decision if the jurisdiction of a foreign court was based exclusively on one of the following circumstances:

- 1) citizenship of the plaintiff;
- 2) the location of the defendant's property in the State in which the decision was rendered;
- 3) service of the statement of claim or of another document instituting the proceedings upon the defendant personally.

(2) Upon objection of a person against whom a foreign judicial decision was rendered, the court shall also deny its recognition, if the court rendering the decision, failed to observe the agreement on jurisdiction of the courts of the Republic of Slovenia.

Article 99

(1) A foreign judicial decision shall not be recognized if a court or another body of the Republic of Slovenia rendered a final decision in the same matter, or if another foreign judicial decision rendered in the same matter was recognized in the Republic of Slovenia.

(2) The court shall stay the recognition of a foreign judicial decision if previously commenced suit in the same matter and between the same parties is pending before a court of the Republic of Slovenia, until such time as this case is concluded by a final decision.

Article 100

A foreign judicial decision shall not be recognized if the effect of its recognition were contrary to the public order of the Republic of Slovenia.

Article 101

(1) A foreign judicial decision shall not be recognized if no reciprocity exists.

(2) The absence of reciprocity shall not preclude the recognition of a foreign decision rendered in matrimonial dispute and in a dispute relating to establishment and contesting of paternity or maternity, or when recognition or enforcement of a foreign judicial decision is requested by a Slovenian citizen.

(3) The existence of reciprocity regarding the recognition of a foreign judicial decision shall be presumed until proof to the contrary is submitted; in case of doubt about the existence of reciprocity, the necessary explanation shall be provided by the ministry of justice.

Article 102

(1) A foreign judicial decision relating to a personal status of a citizen of the State in which it was rendered shall be recognized in the Republic of Slovenia without its examination pursuant to Articles 97, 100, and 101 of this Act.

(2) If, in the opinion of the competent body of the Republic of Slovenia, the decision of a foreign court relates to the personal status of a Slovenian citizen, the recognition of such decision shall be subject to examination pursuant to the provisions of Articles 95 to 101 of this Act.

Article 103

(1) The enforcement of a foreign judicial decision shall be governed by the provisions of Articles 95 to 101 of this Act.

(2) In addition to the attestation, referred to in Article 95 of this Act, the petitioner for enforcement of a foreign judicial decision shall also produce the certificate of its enforceability under the laws of the State in which it was rendered.

2. Recognition and enforcement of foreign arbitral awards

Article 104

(1) A foreign arbitral award shall denote an arbitral award which was not rendered in the Republic of Slovenia.

(2) A foreign arbitral award shall have the origin of the State in which it was rendered.

(3) A foreign arbitral award shall also denote an arbitral award rendered in the Republic of Slovenia, if the law of a foreign State was applied with regard to the procedure, unless this was contrary to the mandatory regulations of the Republic of Slovenia.

(4) A foreign arbitral award, referred to in the third paragraph of this Article, shall have the origin of the State, which law was applied with respect to the procedure.

Article 105

(1) A foreign arbitral award shall be recognized and enforced if the party petitioning for recognition and enforcement shall attach to the petition filed in court:

- 1) the original arbitral award or its authenticated copy;
- 2) the original arbitration agreement or its authenticated copy.

(2) If a foreign arbitral award or an arbitration agreement, or its authenticated copy is not in the official language used by the court before which the recognition and enforcement proceedings are commenced, the party petitioning for recognition and enforcement of the award shall attach the translation in that language, made by a person duly authorized for such translations.

Article 106

- (1) Recognition and enforcement of a foreign arbitral award shall be denied if the court finds
- 1) that under the laws of the Republic of Slovenia, the matter in dispute cannot be decided by arbitration;
 - 2) that the effects of recognition or enforcement of the decision are contrary to the public order of the Republic of Slovenia;
 - 3) that no reciprocity exists;
 - 4) that the arbitration agreement was not concluded in writing or by exchange of letters, cables or teleprinter messages;
 - 5) that one of the parties was not legally capable of concluding an arbitration agreement under the law, applicable for the determination of such legal capacity;
 - 6) that the arbitration agreement is not valid under the law of the State chosen by the parties, or in case the parties did not make such choice, under the law of the State in which the arbitral award was rendered;
 - 7) that the party against whom the recognition and enforcement of the award is sought was not properly notified of the appointment of arbitrators or of the arbitration proceedings, or was unable to exercise its rights in such proceedings, due to some other reason;
 - 8) that the composition of the arbitral tribunal or the arbitration proceedings were not in accordance with the provisions of the arbitration agreement;
 - 9) that the arbitral tribunal overstepped its powers, as specified in the arbitration agreement;
 - 10) that the award has not yet become final and enforceable, or that the award was set aside or its enforcement stayed by the competent body of the State in which it was rendered, or by the body of the State under which law it was rendered;
 - 11) that the decision of the arbitral award is incomprehensible or self-contradictory.

(2) If a foreign arbitral award contains parts to which it was referred above, but which can be separated from the parts in which the arbitral tribunal overstepped its powers, the remaining parts of the award, in which the court did not overstep its powers, may be recognized and enforced.

Article 107

If the proceedings for the setting aside or stay of the enforcement of a foreign arbitral award were started before the competent body from subparagraph 10 of Article 106 of this Act, the court may adjourn the decision-making on the application for recognition and enforcement of this award and may, at the request of the creditor or debtor, make its decision on the adjournment of the procedure subject to an appropriate security to be furnished by the debtor.

3. Procedure for recognition and enforcement of foreign judicial decisions and arbitral awards

Article 108

- (1) The procedure for recognition of a foreign judicial decision or arbitral award shall commence upon a petition.
- (2) Recognition of a foreign judicial decision on matters referring to the personal status may be sought by anyone having legal interest therein.
- (3) The decision on recognition of a foreign judicial decision or arbitral award shall be made by a judge of a District court.
- (4) Territorial jurisdiction for the recognition of a foreign judicial decision or arbitral award shall lie with any court having the jurisdiction of this subject-matter.

- (5) Territorial jurisdiction for the enforcement of a foreign judicial decision or arbitral award shall lie with the Municipal court on the territory of which the execution is to be carried out.
- (6) If no special ruling has been rendered regarding the recognition of a foreign judicial decision or arbitral award, any court may decide on such recognition, treating this question as a preliminary issue; however, such decision shall have effect only with regard to the case pending before the court.

Article 109

- (1) In the proceedings for recognition of a foreign judicial decision or arbitral award, the court shall examine only whether the conditions set out in the provisions of Articles 94 to 107 of this Act are fulfilled.
- (2) If the court finds that there are no obstacles to recognition, it shall issue a ruling, recognizing a foreign decision.
- (3) The ruling on recognition shall be served by the court on the opposite party and on other parties to the proceedings, in which foreign judicial decision was rendered, with the instruction that an objection can be filed within fifteen days of its service.
- (4) The decision on such objection shall be made by the court which has issued the ruling on recognition, sitting in a panel of three judges. If the decision on the objection depends on facts which are in dispute, the court shall render a decision after a hearing.
- (5) Against the court ruling, refusing the application for recognition, and against the court ruling, deciding on the objection, an appeal may be taken to the Supreme Court.
- (6) Notwithstanding the provision of the third paragraph of this Article, the Court shall not serve the ruling on recognition of a foreign judicial decision on the dissolution of marriage on the opposite party, if the person petitioning for recognition is a citizen of the Republic of Slovenia, while the opposite party has neither permanent nor temporary residence in the Republic of Slovenia.

Article 110

The decision on the costs of the proceedings shall be made by the court, in accordance with the rules which would apply if the case were decided by a court or another body of the Republic of Slovenia.

Article 111

Unless otherwise provided in this chapter, the provisions of the Non-contentious Civil Procedure Act shall apply to the proceedings for the recognition of foreign judicial decisions and foreign arbitral awards, as appropriate.